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LAW AND LAWYERS: IX

A Sketch Book

OF

LEGAL BIOGRAPHY, GOSSIP, AND ANECDOTE.

BY

ARCHER POLSON,

OF LINCOLN'S INN.

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# LAW AND LAWYERS.

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## CHAPTER I.

### EARLY STRUGGLES OF EMINENT LAWYERS.

It may be questioned whether poverty, and the difficulties which so often beset men in their passage through life, have all the beneficial influence which is ascribed to them. The school of adversity as often indurates as softens the affections of mankind. In many minds instead of producing humility and industry, it produces only disgust and indifference. Again, looking particularly to the legal profession, it may be doubted whether poverty has not, in many cases, the effect of distracting the attention from professional pursuits.

Lord Erskine said that the first time he addressed the court, he was so overcome with confusion, that he was about to sit down. "At that time," he added, "I fancied I could feel my little children tugging at my gown, so I made an effort—went on, and—succeeded." With a man of less sanguine temperament, the same feeling would have only added to his confusion—the conviction that, upon his success at that time, depended the future welfare of those he loved, would only have aggravated the embarrassment of his novel situation.

About forty years ago, a young man, member of a respectable family, came up to London to prepare himself for the bar. His means were small, but his wants were limited, and well aware that if fortune does not always favour the deserving, she has at least for the ignorant and dissolute no honours or rewards, he applied himself with zeal and assiduity to the study of his profession. Nature had blessed him with an acute mind—his perseverance was untiring, and he could boast that pleasure never allured him from the paths of duty. In due time he took his seat on the back benches in the Court of King's Bench. His prospects were at first promising—his family connexions—the reputation he had acquired during his pupilage, for attention and perseverance, obtained for him, earlier than usual, a

small practice, and what leads to its increase, a good name. Elated by the prospects which appeared opening before him, he married, and he was yet in the prime of life when he was the father of a large family. Unhappily, his business did not increase in the same ratio with his necessities, and he soon began to feel all the difficulties which attend on small supplies and large demands. His physical strength began to fail him, and all the more, when he saw his admirable wife, whom he loved with all the ardour of a first affection, devoting herself to the most menial tasks—discharging the humblest offices for him and their children. On her fragile frame care and sorrow made rapid inroads. A casual attack of illness, aggravated by pecuniary distress, threatened her life, and ultimately she died—falling a victim to her anxieties for her husband and family. Heart-broken, the young lawyer still struggled on for the sake of his children. A few months after the partner of his cares was consigned to the grave, he succeeded in some important cause accidentally intrusted to him: business poured in on him; and, in a very short time, he found himself one of the leaders of the bar. When a friend congratulated him on his sudden promotion, he exclaimed—"Had it but come a few months sooner!"

Reader! this is a true story, as many can vouch: the subject of it now occupies a high place amongst our legal functionaries.

Sir Fletcher Norton\* toiled through the routine of circuits and Westminster Hall for many years without a brief. Mr. Bearcroft, one of the most eminent barristers of the last century, and who died Chief Justice of Chester, underwent the severest difficulties in his passage to wealth and fame. His industry and perseverance were indomitable. For many years his practice was so limited as hardly to suffer him to subsist with the strictest economy. He some-

\* With Sir Fletcher Norton, as with many others, "early struggles" appeared to have in some measure operated injuriously. To them might be ascribed the parsimony and avarice for which he was distinguished in after years, and which obtained for him the elegant appellation of Sir Bullface Doublefee. Horace Walpole mentions an instance of his *amor pecunie*, which deserves to be extracted. "His mother lived at a mighty shabby house at Preston, which Sir Fletcher began to think not quite suitable to the dignity of one who had the honour of being his parent; he cheapened a better, in which were two pictures, valued at £60. The attorney insisted on having them as fixtures for nothing: the landlord refused—the bargain was broken off—and the dowager madam remained in her original hut."



times, however, thought of relinquishing the law as a profession, but a just estimation of his own acquirements induced him to continue, and he at last made himself known, and obtained an immense practice and a high reputation. It was a long time before the eminent merits of Mr. Holroyd, afterwards a puisne judge in the King's Bench, became recognised. Lord Kenyon spoke of him when in his forty-seventh year, as "a rising young man." Sir William Grant travelled many a circuit before he obtained a single brief, and at last owed to the friendship of a minister what he was entitled to expect from his own merits.

Lord Mansfield, although the son of a Scottish Viscount, is said in the early part of his life to have been involved in the greatest pecuniary difficulties. His extrication from these, it has been reported, he owed to the first Lord Foley. The anecdote which tradition has preserved is this: one day Murray was lamenting to Foley that he was compelled, by want of means, to forego all idea of following the law as a profession; and that although his inclination led him another way, he felt he had no resource but taking orders. Lord Foley, affected by this representation, earnestly dissuaded him from pursuing such a design, and generously offered him £200 a year, out of the annual allowance of £500 settled on him by his father. Murray accepted the offer: and thus we owe to the friendship and zeal of this generous peer all the benefits the law of England received from the upright and conscientious magistrate who so long presided in our chief court of justice.\* Shortly after his call, Murray was engaged in several causes in the House of Lords;† but he is

\* Murray never forgot the obligations he owed to Lord Foley. He was in the habit, at the time when his business was considerable, of visiting Lord Foley, in his house in the country, going down on the Saturday night, and returning on the Monday morning. When reproached by a fellow-barrister with thus wasting his time with an old peer, who could add nothing to his advantage or amusement—he replied, "It is enough if my visits tend to the entertainment of my fast friends; if I fail in that, I am at least sure to contribute to the repose of my own faculties."

† It is for this reason that his friend Pope apostrophised him in the well-known lines—

"Blest as thou art, with all the power of words,  
So known, so honoured in the House of Lords."

This charming specimen of "the art of sinking," was admirably parodied by Colley Cibber—

"Persuasion tips his tongue whene'er he talks,  
And he has chambers in the King's Bench walks."

said to have owed his ultimate success rather to a fortunate accident which occurred during a trial in which he was retained a few years afterwards. It was the celebrated case of Theophilus Cibber and Sloper: Murray was junior counsel for the defendant. His leader was seized with a fit in court, before the trial came on—the task of the defence devolved therefore wholly upon Murray, who, having obtained postponement of the trial for an hour, in order to prepare himself, addressed the jury with so much effect, as to reduce the damages against his client to a mere nominal amount. After this time, he has said, business poured in upon him; and he never knew the difference between an income of three hundred a year, and one of as many thousands. Murray, however, when he had attained to the honour of the peerage, and the judicial dignities of his latter years, would never ascribe his elevation to the force of his own talents. “My success in life,” he said, “was not very remarkable; my father was a man of rank and fashion: early in life, I was introduced into the best company, and my circumstances enabled me to support the character of a man of fortune. To these advantages I chiefly owe my rise.” However Lord Mansfield may have chosen to underrate the difficulties which beset him in his early life, it is well known that these difficulties were inconsiderable neither in number nor degree; and although he might have been enabled to support the appearance of a man of fortune, in reality he was far removed from that condition. It is a matter of notoriety, that when he first offered his hand to Lady Elizabeth Finch, daughter of the Earl of Winchelsea, his advances were most peremptorily rejected, on the score of his want of means.\*

It will, perhaps, excite surprise in the minds of some of our readers, who are aware that his father was Chief Justice of the King’s Bench, to see the name of Lord Camden in this place. But despite his powerful family connexions, it was through disheartening difficulties that this great man had to struggle to the eminence he afterwards attained. For many years did he endure the evils which attend on an empty bag and empty pocket. Three years after he was called he thus writes: “Alas! my horse is lamer than ever; no sooner cured of one shoulder than

\* It is to this mortifying rejection, that Pope refers, in his imitation of Horace, Book iv. Ode 1.

“Shall one whom nature, learning, birth, conspired  
To form, not to admire, but be admired,  
Sigh, while his Chloe, blind to wit and worth,  
Weds the rich dulness of some son of earth?”

the other began to halt. My hopes in horse-flesh ruin me, and keep me so poor, that I have scarce money enough to bear me out in a summer's ramble; yet ramble I must, if I starve to pay for it." It is reported that, almost broken-hearted, he came to the resolve, after having for eight or nine years battled with the storms of fate, to resign all hopes of success at the bar, to retire to his college (of which he was a fellow), and qualify himself for taking holy orders, being well assured of a college living in the course of a few years. A short time before the circuit he declared his intention to his friend Henley (afterwards Lord Chancellor Northington), who endeavoured first to laugh, and then to reason him, out of his resolution; but finding neither course succeed, he managed to get Pratt retained as junior counsel to himself in a cause of great weight, and then absenting himself—either being, or pretending to be, seriously ill—the *lead* fell to the share of Pratt, who displayed his learning and talents with such eminent success, as at once to obtain a practice and reputation commensurate to his industry and abilities.\*

Lord Kenyon is another instance, showing how little want of connexion, or what are called expectancies, obstruct the career of the sound and steady lawyer. Like his friend Dunning, he commenced his legal education in the office of an attorney, with whom it was originally intended that he should have become partner. Some difference, however, as to terms, broke off the negotiation. When a clerk, it is said, he was much annoyed at being constantly solicited by the wife of his master to discharge duties usually considered as pertaining rather to the office of a menial. Once this lady addressed him—"Pray, Mr. Kenyon, as you are going out, will you be kind enough to call at the green-grocer's, and order me a cauliflower; or stay, perhaps, you would have no objection to bring it home with you?" Kenyon bowed, and at his return informed the worthy dame he had performed her commands, and that he had paid sixpence for the vegetable, and eighteenpence for a chair to bring it home. This was the last time such a request was preferred to him. His employer appears to

\* After Lord Camden became Chief Justice of the Common Pleas, he wrote thus to a friend:—I remember you prophesied formerly that I should be a Chief Justice, or, perhaps, something higher. Half is come to pass; I am Thane of Cawdor; but the greater is behind; and if that fails me, you are still a false prophet. Joking aside, I am retired out of this bustling world, to a place of sufficient profit, ease, and dignity; and believe me that I am a much happier man than the highest post in the law could have made me."

have exhibited all the parsimony he himself displayed in after years. When his cook informed him that there was not dinner enough provided upon one occasion when company were expected, he asked if she had *brothed* the clerks. She replied that she had done so. "Well, then," said he, "broth 'em again." Kenyon, finding it impossible to induce his master to abate his terms for admitting him into partnership, resolved to relinquish his profession, and attempt the bar. This he did, and in 1754 entered himself at Lincoln's Inn. Dark and dismal indeed were his prospects—long and arduous the struggles by which he could hope to acquire even a competence. He had not, like Dunning or Erskine, the eloquence of the orator,\* which, directly it were manifested, would give him a reputation that exertion alone was wanted to increase. The only qualities that he possessed were, however valuable, calculated to enhance rather than to confer notoriety—steady perseverance, untiring industry, indomitable resolution. With laborious efforts, step by step, he rose from obscurity to honour; from the desk of a stingy attorney to the presidency of the first court of justice in the kingdom.

When he was a student, Kenyon was very intimate with Dunning and Horne Tooke, both of whom were then keeping their terms.† The trio used generally to dine together in vacation, at a mean little eating-house near Chancery-lane. The splendour of their fare may be guessed at from the fact that it cost them sevenpence-halfpenny each. "As to Dunning and myself," Tooke would say, "we were generous; for we gave the girl who waited a penny a piece, but Kenyon, who always knew the value of money,

\* Kenyon's style of speaking has been likened to that of the young Irishman addressing a court of law for the first time. "Your lordships perceive that we stand here as our grandmother's administrators *de bonis non*; and really, my lords, it does strike me that it would be a monstrous thing to say, that a party can now come in, in the very teeth of an Act of Parliament, and actually turn us round, under colour of hanging us up, on the foot of a contract made behind our backs."

† Dunning and Kenyon continued good friends through life, although the gaiety and wit of the former induced him sometimes seriously to annoy the more sober Welshman. Kenyon once asked Dunning to frank a letter to a relation in North Wales. Dunning wrote the direction correctly, adding, after North Wales, "Near Chester." Kenyon, enraged, threw down the letter, and exclaimed, "Take your frank, Mr. Dunning: I will accept no more from you." Dunning got between him and the door, and managed by apologies and entreaties to pacify his friend.

sometimes rewarded her with a halfpenny, and sometimes with a promise." When he was called to the bar, his prospects did not improve. He was doomed to sit, term after term, on the back benches, unknown, and with scarcely any chance of success. The spirits of almost any other man would have broken down under circumstances so discouraging. But Kenyon was made of sterner stuff. He fagged on with courage—enlarging his knowledge of the law, by taking copious notes of the decisions of the bench when in court, and incessantly reading the text-books and reports when in chambers. At length he became gradually known as a painstaking, working counsel, who might be safely depended on, in cases where industry and patience were particularly required. A reputation of this kind was the foundation of his fortune. He made no sudden *hit*—acquired no unexpected triumph—but by steady and unceasing labour, he proved (and we commend the lesson to all placed in similar circumstances,) that whoever does justice to the law, to him in the end will the law do justice. Few have had greater difficulties to struggle with in early life than Lord Thurlow. His father\* was the incumbent of a small parish in Suffolk, and used to say that he could give his children nothing but a good education, and that Ned (meaning the future chancellor) would have to fight his own way in the world. And this indeed was his lot, and well and manfully did he meet it. For some years after he was called to the bar he was wholly unknown as a lawyer. So slender were his means, that while travelling the circuit he was compelled to resort to the most extraordinary expedients in order to defray his expenses. He once found himself utterly destitute of money, and his usual resources wholly unavailable. How to defray the expenses of reaching the next assize town for a time baffled his ingenuity. At length he hit upon a scheme. He sent for a stable-keeper, and told him he wanted a good horse, and asked him if he had one to sell. The stable-keeper assured him that he had one which he could confidently recommend. Thurlow then consented to take his horse on trial, and, if he approved of it, to purchase it at

\* When Lord Chancellor, some obsequious friend said, that as Thurlow, the celebrated secretary, was of a Suffolk family, probably Thurlow himself was related to him. "No, sir," replied the chancellor, "in that county there were two families of the same name: from one sprung Thurlow, the statesman, from the other Thurlow the carrier; I am descended from the last." When Lord Thurlow's patent of peerage was being registered, the herald inquired the name of his lordship's mother. "I don't know," vociferated the chancellor in a tone of thunder.

a certain price. The horse was sent the next morning according to appointment. Thurlow used him for the purpose desired, and then returned him to the owner, with a threat of bringing an action against him for venturing to set a gentleman on such a beast, whose faults rendered him fit for nothing but hounds' food!

The first cause of importance in which he was engaged was that of *Robinson v. the Earl of Winchelsea*. He had the fate to be opposed to Sir Fletcher Norton, whose rough and overbearing manner was the terror of all the juniors. But in Thurlow Sir Fletcher met his match; and when he ventured some of his accustomed bearishness, received from the young advocate a retort so spirited and severe, that it won for Thurlow the applause of all who heard it. His ultimate rise, however, was owing to another circumstance. Thurlow was remarkable, when a student, for the extraordinary manner in which he disposed of his time. Giving up his nights to unremitting study, the hours of daylight he spent in the coffee-houses, amidst wits and rakes, the very idlest of the idle. When at the bar he seemed to have still frequented these places of entertainment; though, perhaps, not to the same extent as before. Indeed, they were the usual resorts of barristers, when not occupied in their professional avocations. One evening, at Nando's, a favourite coffee-house near Temple-bar, where several of the same profession were assembled, the conversation turned upon the famous Douglas case, which was then about to become the subject of legal proceedings. Several of the counsel engaged were present; some one of whom observed, that it was a great pity as yet no barrister should have been found who was willing to go through and methodise the immense mass of evidence, which was necessary to be done before the briefs could be prepared, and which required such abilities and knowledge of law that it was wholly useless to entrust it to the care of an attorney. Some remark made by Thurlow induced the observation, "that, perhaps, he was willing to undertake the onerous task;" and the result was that it was confided to him. So great were the abilities that he displayed in discharging the duties which so unexpectedly devolved on him, that he was intrusted with a brief in the cause itself. During the time he was arranging the evidence for the plaintiff, Thurlow was constantly brought into immediate contact with some of the most distinguished persons in the country, and amongst them with the high-spirited Duchess of Queensberry, so well known as the friend of Pope, and patroness of Gay. Thurlow managed so effectually to initiate himself with the duchess, as to induce her to exert influence to obtain him a silk gown. This, after re-

peated importunities, and many refusals, she succeeded in obtaining from Lord Bute; and Thurlow, in addressing the House of Lords in the Douglas case, did so as a king's counsel, although almost unknown at the bar. His success on this occasion exceeded even his own expectations, and seemed to promise a realization of all his fondest hopes. But he was doomed to meet with further mortifications. His business in the King's Bench, which soon became considerable, received a severe shock from Lord Mansfield's anxiety to pay his court to Sir Fletcher Norton, who was not only hated by the bar, but dreaded by the bench. Upon one occasion, Thurlow was arguing against the execution of a power in a marriage settlement. He took three objections to the execution, and having argued the two first at great length, closed with observing, that he should not trouble the court with entering fully into the third objection, believing the case to be quite clear on the two first. When, some days afterwards, Lord Mansfield delivered the judgment of the court, he did so in these words: "Mr. Thurlow, we decide that the power was not duly executed; but not on either of the reasons which you have urged, but on that which you have abandoned." This speech, so discreditable to the judge, proved very injurious to the advocate; and for some time he was seen, though a king's counsel, with a light bag.

Mr. Dunning may be cited as another instance of the truth, that genius and resolution will overcome the most unpromising circumstances. The son of a Devonshire attorney, in a day when attorneys occupied a very different position in society to that they do now, he came to London with none of those introductions which obtain for native talent the opportunity of becoming known, and none of those connexions which give to moderate abilities a chance of success. The following tradition has been preserved in Devonshire respecting the circumstances that led to his going to the bar. In the first instance he was intended to succeed his father in his business, and was, in order to prepare himself for this occupation, some time a clerk in his office. It is said that a nobleman, returning from a foreign embassy, landed at Plymouth or Falmouth, and being in bad health, travelled to London by easy stages. He stopped at an inn at Ashburton (Dunning's native place) intending to remain the night there. Finding himself lonely, he inquired whether there was any man of education in the town, whose society would relieve the tedium of a solitary afternoon. The clergyman of the parish was first named, but he was absent from home; as was the medical man; application was then made for the lawyer, Mr. Dunning (the elder),

but he, too, was from home; his son, however, fancying that the invalid might require professional assistance, proceeded to the inn to tender his services, and was invited to spend the evening with the stranger. So much was the nobleman struck with the talent and quickness he manifested in conversation, that he strongly advised him to turn his attention to the bar. This Dunning did, it is said, with some difficulty, in consequence of his father's desire that he should follow his original profession. The nobleman already mentioned is supposed to have been Henry, Earl of Shelburne, who died in 1751.

During his studentship, Dunning encountered all those difficulties which beset men who strive with slender means to succeed in an expensive profession. His father allowed him, while he was a student, and for a few years after he was called to the bar, a hundred a-year. He lived in Pump-court, up two pair of stairs, and is said to have studied so hard, that he made a rule of never leaving his chambers during the day—devoting himself to his books from an early hour in the morning until late in the evening, when he went to the Grecian or George's Coffee-house. There assembled the wits of the day, whom he charmed with his witty sallies and extensive information; while, to economise his time, he partook of dinner and supper in one meal. His difficulties did not cease when he was called. For the three first years his fees did not amount to a hundred guineas. The receipts of the fourth year exceeded a thousand; and he is said to have made from eight to ten thousand a year during the last twelve years he was at the bar. The first thing that brought him into notice was a memorial that he prepared respecting a quarrel between the English and the Dutch in India, in the year 1764. This produced the desirable consequence of reparation on the part of their High Mightinesses. So highly did the East India Company estimate the service that he thus rendered them, that they presented him with five hundred pounds as a token of their gratitude. From this time business flowed in on him, and his connexion and influence daily enlarged. Although he was no older than fifty-two when he died, Dunning left behind him a fortune of £150,000. He used to live at a very expensive rate; in such a way, in fact, as shocked his mother, whose notions of high life were rather confined, and who could never believe that "her son John" could possibly pay for half the luxuries she saw on his table. One day when she was on a visit to him, he gave a grand entertainment in her honour at his house at Fulham. The poor old lady was astonished at the splendid appearance of the table, loaded with all the delicacies which season could afford. During the whole time of dinner



she did not speak a word. At the first opportunity, after the repast was over, she sent for her son. "John," said she, "I shall not stop another day to witness your shameful extravagance." "My dear mother," returned Dunning, "you ought to consider that I can well afford it. My income, you know ———." "No income," replied the old woman, "can stand against such scandalous prodigality. The sum which your cook told me that very turbot cost, ought to be enough to support any reasonable family for a whole week." "Pooh! pooh! my dear mother, you would not have me appear shabby. Besides, what is a turbot after all?" "Pooh! pooh!" re-echoed his mother, "don't *pooh* me, John. I tell you that such goings on can come to no good, and you will see the end of it before long. However, it sha'n't be said that your mother encouraged such waste; for I mean to set off in the coach for Devonshire to-morrow morning;" and, despite her son's entreaties, she kept her word.

Of Lord Eldon, Mr. Bentham says, "that Mr. Scott waited the exact number of years it cost to take Troy, and had formed his determination to pine no longer, when Providence sent an angel, in the shape of Mr. Barker, with the papers of a fat suit, and a retaining fee. He became an old clerk, was a favourite at court, and had his entrées. Without an extra stock of powder in his hair, never durst the plenipotentiary approach the royal presence." There is much exaggeration in this statement. It is well known that Scott, when only twenty years of age, eloped\* with a daughter of a wealthy Newcastle banker. "Jack Scott has run off with Betty Surtees," was the exclamation of the future chancellor's old schoolmaster: "the poor lad is undone." "I suppose," said William Scott, afterwards Lord Stowell, to an Oxford friend, "you have heard of this very foolish act of my very foolish brother," "I hope," replied

\* We have the following anecdote from a source to be relied on. George III. was one day standing between Lord Eldon and the Archbishop of Canterbury, Dr. Sutton. After a moment's pause in the conversation, the king said, gravely, "I am now in a position which, probably, no European king ever occupied before." Lord Eldon begged his Majesty to explain himself. "I am standing," said the king, in the same grave tone, "between the head of the Church, and the head of the Law in my kingdom—men who ought to be the patterns of morality, but who have both been guilty of the greatest immorality." The two lords—Reverend and Learned—looked shocked and astonished. Lord Eldon respectfully begged to know to what his Majesty alluded. "Why, my lords," exclaimed the king, in a tone of banter—"Tell me, did you not both run away with your wives?"

his friend, "that it will turn out better than you anticipate." "Never, sir," replied Mr. Scott, "he is completely ruined; nor can anything now save him from absolute beggary. You do not know," he continued, "how very unhappy this makes me; for I had good hopes of him, till this last confounded step has destroyed all."

It has often been said that after his marriage his father-in-law refused all intercourse with him, until he had acquired fame and wealth, and then made some overtures which Scott rejected. When Chancellor, he is said to have affixed the great seal to a commission of bankruptcy against his father-in-law. But this is not true. A few days after her marriage, Mrs. Scott received, by her youngest brother, a letter of forgiveness, on which, accompanied by her husband, she returned to her father's, where the young couple staid for some months. It has been reported that during his sojourn in Newcastle a very respectable and wealthy tradesman, a grocer, who had known his father and family for many years, called on Scott, and proposed, as he himself had no children, that he should become a partner in his business. Mr. Scott is said to have paused on this offer, and to have told the worthy grocer that he had written to his brother at Oxford respecting his plans—that he expected an answer the next day—and that, according to the advice it should contain, would his future course be shaped. The next day the letter arrived, and, as it conveyed an invitation to return to Oxford, determined him to decline the generous offer of the friendly grocer. Scott, accompanied by his wife, then went to Oxford, where he resided until his call to the bar, studying law with the utmost severity. After his call, he spent two years in the chambers of Mr. Duane, an eminent conveyancer, by which means he acquired a most intimate acquaintance with the principles and practice of the Law of Real Property. But the fruits of his first year's practice were not large—amounting to one solitary half-guinea, which he generously presented to his wife as pocket-money. His father-in-law obtained for him a general retainer from the corporation of Newcastle, and several fees from some of its wealthy merchants.

Scott, about this time, was also made one of the commissioners of bankrupts; beside which, he obtained the professional business of the Duke of Northumberland. From 1774—one year after he commenced practice—to 1783, his business, at first slowly, and afterwards rapidly, increased. About four years after his call he appears to have been impatient of the tardiness of his progress; and, apprehensive of the difficulties imposed on him, as the father of a family,

would increase, resolved to abandon the London bar, and return to Newcastle. There were two circumstances that prevented him from carrying this resolution into effect. The first was his success in a great case which was originally heard before the Master of the Rolls. Scott had a guinea brief to consent on behalf of one of the parties—another of the parties, however, would not yield, and appealed from the Master to the Chancellor. The solicitor of Mr. Scott's client, called on him with another guinea consent brief: but Mr. Scott said that now he had heard the matter argued, he was disposed to think that a good deal might be said on his client's behalf, and therefore he thought he should be imprudent to consent. The solicitor replied, that he had no other instructions but to consent; but he would mention the matter to his client. The result was, that Mr. Scott was instructed to take what course he thought proper. When the day for the cause arrived, the other parties urged their claims with such apparent reason, that Lord Thurlow inquired what the opposite side had to observe. On this, Scott rose and advocated the cause of his client with so much learning and ability that Lord Thurlow admitted himself startled with the novelty and force of his reasoning, and said he must take time to consider. Ultimately he decided, with many compliments to Mr. Scott, in his favour.

In the spring of the same year, some engagement preventing Mr. Cowper appearing before a committee of the House of Commons, and Mr. G. Hardinge refusing to lead in a case in which he had been retained as junior, the solicitor for the petition hastened to Carey-street, to offer the vacant brief to Mr. Scott. When he arrived, he found that Scott had retired to rest: he desired him to be aroused, and when he came down, told him his business. After a moment's consideration, Scott told the solicitor that at so short a notice it would be impossible for him to argue the case; but that all he could do would be to state the facts to the committee, and to entreat them for a short indulgence, while he made himself master of the law. The solicitor acquiesced in this proposal; and next morning accordingly Scott appeared before the committee, and opened the case with the greatest perspicuity, and then requested the delay of a few hours, which was immediately granted him. Passing from this committee into Westminster Hall, he was accosted by Mr. Mansfield, then a leader in the courts. "Mr. Scott," said he, "I hear you are about to leave us. Let me advise you not to be too hasty. Try London another year." Flattered by this advice, which was repeated by

Mr. Wilson, another great leader, whom he met with in the hall, in deference to their opinions the young lawyer abandoned his intention, and in the course of the next year had plenty of business.

The following anecdote has also been related of one of Mr. Scott's early "happy hits." Mr. Scott was junior in an action of assault, and when the cause was called on, he rose to say that his leader was engaged in the Crown Court, and to express his hope that the court would postpone the cause for a short time. "Call the next cause," exclaimed the judge, in a tone which implied "strike this out of the list." Mr. Scott immediately—it was a case of desperation—addressed the jury:—a Mrs. Fermor and an elderly maiden lady, Miss Sanstern, were opposed to each other at a whist table, and had a slight difference. Words led to blows, and Mrs. Fermor was forced from her chair to the floor. The evidence appeared conclusive that Miss Sanstern committed the first assault; but the defendant's counsel objected that there was a fatal variance between the declaration and the proof, the declaration alleging that the assault had been committed by the *hand* of the defendant; the proof being that she had flung her *card* into the plaintiff's face. Mr. Scott replied, that "In the common parlance of the card-table, a hand means cards. She *did* assault the plaintiff with her *hand of cards*." Lord Eldon's recollection of the story was, that he gained a verdict for a small amount. The year after his first success Eldon refused a mastership in Chancery—in three years received a silk gown—and led the northern circuit.

The circumstances of Lord Erskine's early life unquestionably entitle him to a place here. A cadet, like Lord Mansfield, of a noble Scotch family, he was exposed to still greater disadvantages. He went to sea at the age of fourteen, and obtained the temporary rank of lieutenant; but finding that his chances of promotion were slight and remote, he afterwards entered the army. He accompanied his regiment to Minorca, where he continued for three years. He is said to have selected the military profession, not from any martial predilections, but simply because the circumstances of his family precluded the possibility of his adopting any of the learned professions. Ultimately, however, after a period of six years' service, he determined to try his chance at the bar; to which, after obtaining a nobleman's degree at Cambridge, he was called in due season. This step, it as been said, he was induced to take by the importunities his mother, who, herself an accomplished and highly-educated woman, detected the latent talents of her illus-

trious son. While in the army, Erskine married a beautiful and intelligent young lady, who is said to have borne the hardships of her lot with constancy and courage.

His own account of the circumstance to which he owed his celebrity at the English bar is this :—"I had scarcely a shilling in my pocket when I got my first retainer. It was sent me by a Captain Baillie of the navy, who held an office at the Board of Greenwich Hospital; and I was to show cause in the Michaelmas term against a rule that had been obtained against him, in the preceding term, calling on him to show cause why a criminal information for a libel reflecting on Lord Sandwich's conduct, as governor of that charity, should not be filed against him. I had met, during the long vacation, this Captain Baillie at a friend's table; and after dinner expressed myself with some warmth, probably with some eloquence, on the corruption of Lord Sandwich, as First Lord of the Admiralty; and then adverted to the scandalous practices imputed to him, with regard to Greenwich Hospital. Baillie nudged the person who sat next to him, and asked who I was. Being told that I had been just called to the bar, and had been formerly in the navy, Baillie exclaimed, 'Then, by G—! I'll have him for one of my counsel.' I trudged down to Westminster Hall when I got the brief, and being the junior of five who would be heard before me, never dreamt that the court would hear me at all. The argument came on. Dunning, Bearcroft, Wallace, Bower, Hargrave, were all heard at considerable length, and I was to follow. Hargrave was long-winded, and tired the court. It was a bad omen. But as my good fortune would have it, he was afflicted with the strangury, and was obliged to retire once or twice in the course of his argument. This protracted the cause so long, that when he had finished, Lord Mansfield said that the remaining counsel should be heard next morning. This was exactly what I wished. I had the whole night to arrange in my chambers what I had to say the next morning; and I took the court with their faculties awake and freshened, succeeded quite to my own satisfaction, (sometimes the surest proof that you have satisfied others,) and as I marched along the hall, after the rising of the judges, the attorneys flocked round me with their retainers. I have since flourished; but I have always blessed God for the providential strangury of poor Hargrave!" The annals of English advocacy do not record a triumph more sudden, or better earned. Lord Mansfield frequently checked the young speaker when, wandering from the immediate matter at issue, he hurled the weapons of his eloquence at Lor

Sandwich himself. "Lord Sandwich is not before the court," observed the chief justice, in a tone of grave reproof. "Not before the court? Then, my lord, I will *drag him* before the court," replied the intrepid advocate. It has been reported, that when he left the court, he had thirty briefs pressed on him by admiring attorneys, who had witnessed his brilliant display.

When his business, though increasing, was small, somebody met him in Westminster Hall, and congratulated him on his good looks and apparent flow of spirits. "Why," said he, "I ought to look well; for I have nothing to do but to grow, as Lord Abercorn says of his trees."

## CHAPTER II.

## LEGAL ECCENTRICITY.

THE lawyer, unlike the medical man, has nothing to gain in assuming eccentricity. Rough, uncourtly, and disagreeable manners have never been considered a way "of getting on at the bar;" although, as is well known, not a few of the eminent medical practitioners, in either branch of the profession, have derived both fame and profit from insulting every patient whom fortune has thrown in their way. "He is such a rude man, he *must* be vastly clever"—is a reflection which not uncommonly suggests itself to the minds of valetudinarians; and hence the large fortunes which men, whose assumed ferocity of manners has rendered them unworthy of civilized society, have so often acquired. The eccentricities of lawyers, on the contrary, have been natural to them, and have, for the most part, arisen from the abstruse nature of the subjects with which their minds have been conversant, rendering them ignorant or neglectful of the customs of the world, whether as respects conduct, opinions, or manners.

Serjeant Prime—a good-natured, but rather dull man, and, as an advocate, wearisome beyond comparison—was retained on one occasion to argue an ejectment case on circuit. The day was intensely hot, and, as the case excited great interest, the court was crammed full. Prime made a three hours' speech, whose soporific influence, aided by the atmosphere of the court, was most potent. A boy, early in the proceedings, who was anxious to see all that was to be seen, managed to clamber up to the roof of the court, and seated himself on a transverse beam, over the heads of the spectators. The heat, and the serjeant's dulness, soon overcame him; he fell fast asleep, and, losing his balance, came tumbling down among the people below. He fortunately escaped with only a few bruises; but several persons in the court were severely hurt. For this offence the serjeant was tried at the circuit table, found guilty, and sentenced to pay three dozen of wine towards the mess, which he did with the greatest possible good-humour.—A counsel once getting up to reply to one of his lengthy orations, which had made the jury very drowsy, began, "Gentlemen, after the long speech of the learned serjeant—" "Sir, I beg your pardon," interrupted Mr. Justice Nares; "you might

say, after the long *soliloquy*, for my brother Prime has been talking an hour to himself!"—Of the learned serjeant the following anecdote has been recorded. At the time when making a new serjeant was considered an important event, part of the ceremony was a procession, which set out from the Temple westward, up Surrey-street in the strand, and then, turning eastward, went up Chancery-lane, to Serjeant's Inn, where those already of the rank of serjeants were assembled in their hall to receive the new serjeant; and, on his approach, the intimation was given, "I spy a brother." When Prime was called to the rank of serjeant, some one recollecting that his crest was an owl, with the intention of turning the new brother of the coif into ridicule, got a figure of an owl placed at the first floor window of a house in the Strand, directly facing Surrey-street, with a label round his neck, on which was written in large characters, "I spy a brother."—The circumstances which induced Serjeant Prime to withdraw from the profession have been thus related by Lord Chancellor Thurlow. "I drove Serjeant Prime from the bar without intending it. I happened to be walking up and down Westminster Hall with him while Dr. Florence Henzey was on his trial in the King's Bench for high treason. Serjeant Prime was at that time the king's prime serjeant; and, as such, had precedence over all lawyers in the king's service. But the ministers of that day, wishing to pay court to Sir Fletcher Norton, though he had at that time no other rank than king's counsel, they therefore entrusted the trial to him. I happened to make this remark to Serjeant Prime—'It is a little singular, sir, that I should be walking up and down Westminster Hall with the king's prime serjeant while a trial at bar for high treason is going on in that court:' the expression struck him: he felt the affront put on him: he went the next morning, resigned his office, and retired from the profession."—The following circumstance, it is believed, happened to the learned serjeant. He had a remarkably long nose, and being one day out riding, was flung from his horse, and fell upon his face, in the middle of the road. A countryman, who saw the occurrence, ran hastily up, raised the serjeant from the dirt, and asked him whether he was much hurt. The serjeant replied in the negative. "I zee, zur," said the rustic, grinning, "*yer ploughshare saved ye!*"

Serjeant Whitaker was one of the most eminent lawyers of his day. Few memorials of him have been preserved, and these are of a character which serve rather to exhibit him in the light of a humorous than of a learned man, which he undoubtedly was. One day, on a journey to Oxford, in company with Mr. Murphy, his carriage was stopped in the



lane of a country village by a wagon delivering fat and offal to a tallow-chandler. While he fretted at this delay, a horseman came up to the side of the chaise, who was most remarkable for his thinness, and began teasing the serjeant with an account of the number of miles he had ridden that day, and the still greater number he had to go before night. Whitaker heard him for some time with subdued temper; at last, breaking out, he exclaimed, "And what mighty matter is all this, sir, considering that you have just sent your *insides* before you, and have now nothing to carry but the *case*?"—Two ladies, of rank and fashion, were once praising Mr. Serjeant Walker's dancing. Whitaker, who knew that his brother-in-law was remarkable for anything except grace, insisted that their ladyships were mistaken as to the individual. When they declared that they were not, he begged leave to put one question to them—"Pray, ladies, was it upon his hind legs or his fore legs that Serjeant Walker moved so gracefully?"—During an examination which he conducted at the bar of the House of Lords, he put a question to the witness, as to the legality of which some objection was taken. Counsel were ordered to withdraw, and a debate of two hours ensued respecting the propriety of the question; but nothing was resolved on. When he was re-admitted, Whitaker was desired to put the question over again; but he merely replied—"Upon my word, my lords, it is so long since I first put the question, that I entirely forget it; but, with your leave, I'll now put another."

Far more eminent than either of these worthies was the well-known Mr. Serjeant Hill, who was not only one of the most eccentric, but also one of the most deeply read, of our lawyers. His eccentricity was not, as is too often the case, the cloak for selfishness and ill-nature—it was natural to his character, and arose simply from his habits of abstraction, rendering him perfectly insensible to all the objects around him.

He married Miss Medlycott, of Cottingham, in Northamptonshire, a great heiress. On the morning of the day appointed for the wedding, the serjeant went down to his chambers as usual, and becoming immersed in business, forgot entirely the *engagement* he had formed for that morning. The bride waited for him so long, that it was feared the canonical hour would elapse before his arrival. A messenger was accordingly despatched to request his immediate attendance. He obeyed the summons, and, having become a husband, returned again to business. About dinner-time, his clerk suspecting that he had forgotten entirely the proceedings of the morning, ventured to recall them to his

recollection : fortunately the serjeant had, at that moment, discovered the case for which he had been hunting, and he returned to his house to spend the evening in a gayer circle.

By an Act of Parliament, Miss Medlycott was empowered to use her maiden name after her marriage, but the serjeant did not like her exercising this right. He would not allow her to sign her name otherwise than "Elizabeth Hill," except on important occasions ; always observing, if she made any objection—"My name is Hill, and my father's name was Hill, and a very good name is Hill, too!" He survived his wife. After her death, a friend called on him to condole with him on her loss. He found the serjeant sitting, looking very sad and disconsolate. At last he said—"So, poor woman, you find she is gone." "Yes, sir, I called upon you to condole with you upon the melancholy occasion." "Ay, she is gone! a very good woman ; a great loss to me, certainly, sir. But I'll tell you one thing, Mr. —, if I should ever be induced to take another wife, I would not marry *merely for money*."—The serjeant was remarkable for the ceremonious attention with which he treated his wife during her life-time. Once, being engaged in an important case at Leicester, finding that its trial would probably last far into the night, he desired his clerk, in a loud voice—so that the message was heard by all in court—"to offer his compliments to Mrs. Hill, and to express his great regret that he should not be able to sleep with her that night, as he expected to be detained until very late." His wife is said to have been excessively fond of him, although tradition has recorded that she would not suffer him to leave his house in Bedford square, in the morning, by the hall-door, lest he should soil the steps, which had just been cleansed. The learned serjeant, to gratify her, would make his exit by the kitchen steps.

He has been known to argue a case for several hours without the slightest attempt at either eloquence or humour. Still his profound learning, and immense (if we may manufacture the word) *case-knowledge*, always made his arguments interesting and important. He acquired the sobriquet of "Serjeant Labyrinth," for he would often stand up in court, as immovable as a statue, with his eyes fixed on vacancy, arguing his client's case, and so wrapt up in his argument as to be insensible to everything else. Once, in the midst of his argument, which was so frequently perplexed with parentheses as to excite the laughter of the court, Lord Mansfield interrupted him, with "Mr. Serjeant, Mr. Serjeant." The serjeant was rather deaf, and the words were repeated without effect. At length the counsel sitting

beside him told him that Lord Mansfield spoke to him. This drew his attention to the bench, and Lord Mansfield, in his blandest tones, addressed him, "Mr. Serjeant, the court hopes your cold is better." "All this was done," says Mr. Hawkins, who relates the anecdote, "in a tone and manner which shewed that he wished to make the object of this apparent civility, in fact, an object of ridicule."\* Another anecdote exhibits Serjeant Hill's wonted absence of mind. He once argued a point of law for some time at *non propter*; and putting his hand into his bag, he drew forth a plated candlestick, which he gravely presented to the court. Some one, it appeared, had substituted a traveller's bag for that of the serjeant's, whence the mistake; which, it should be observed, he was the last man present to detect.

Mr. Cradock mentions his having been in the habit of meeting the Serjeant and Counsellor Newnham at Leicester, both of whom were mirthful, and usually afforded great amusement to all present. Newnham was more successful even than Lord Mansfield, in "showing off" the worthy serjeant; but, in the conflict of wit, often himself received damage. So delighted once was Hill with a victory which he obtained over his opponent at a party, at the house of the under-sheriff of Northamptonshire, that, when he retired, he, by mistake, gave a shilling to his excellent host, and, to the amazement of the company, shook hands in the most hearty manner with the servant.—In one of the serjeant's abstracted moods he had forgotten to button up the front of his breeches. This was observed by some counsel near him during an argument of some very abstruse point of black letter, in which he was engaged, who whispered to him, "your breeches are unbuttoned." The serjeant, thinking it some hint connected with the cause, adopted it without consideration, and, in unaltered tone of voice, exclaimed, "My Lords, the plaintiff's breeches were unbuttoned," nor was he aware of the inappropriateness of

\* The law reports of Mr. Justice Croke are usually quoted according to the reigns to which they refer—Elizabeth, James, Charles. A little barrister, named Morgan, in arguing a case in the King's Bench, quoted so frequently from Croke Charles, Croke James, and Croke Elizabeth, that the whole bar became convulsed with laughter, and he, in consequence, obtained the *sobriquet* of "Frog Morgan." This worthy advocate was remarkable for his diminutive stature. Before he was much known at the bar he was beginning to open a case, when Lord Mansfield, in a tone of grave rebuke, addressed him, "Sir, it is usual for counsel when they address the court to stand up." "I *am* standing, my lord," screamed Frog Morgan: "I have been standing these five minutes!"

the introduction, until informed by the same person of the hint having reference to his own breeches, and not to the plaintiff's.—One time, while at his country-seat in Northamptonshire, he was occupied in reading an old case, respecting the destruction of noxious animals. During the time he was so engaged, he was disturbed by the cry of the hounds belonging to the Pytchley Hunt. The fox took refuge in his shrubbery, which, when the serjeant perceived, he immediately desired his servants to kill it, and request the master of the hunt to walk in and read the report of the case before him!

We should add that he was in the domestic relations of life amiable, and universally beloved. His uprightness and integrity were universally appreciated. He loved his profession, and the noble science with which it is conversant. He repeatedly refused offers of advancement to the bench, preferring to dedicate his time to study. He accumulated a splendid library, the greatest part of which is now the property of the Society of Lincoln's-Inn.

Before we close our notice of this great man, we must draw the attention of our readers to the following letter, which he addressed to the chancellor, in 1804, when it was understood that a plot had been formed for the assassination of Buonaparte. This letter has never before been printed, and has been kindly placed at our disposal by a member of his family:—

“MY LORD,—There ought to be an immediate inquiry made by authority, whether any of the king's subjects, or any aliens resident here, have been concerned in the assassination plot, and also an offer made to the French government to permit them to send over any they please, or direct any other mode of inquiry that this government can pursue, in order to satisfy them that the English have in the utmost detestation any such attempt; and if any of the French here shall be discovered to have been guilty, to send them over immediately, and if any of the English should, to commit them, (if not of the lowest class,) and prosecute them by law, and in so extraordinary a case, to procure an *ex post facto* law if necessary; for this assertion I submit to your lordships the following reasons, viz. There are *jura belli*, and assassination is a violation of those rights; but it is impossible for any administration to be responsible for the conduct of all who live under it; all they can do is to signify their detestation of so infamous a practice, as Lord Nelson did in the House of Lords—to do all they can in their power to punish it, in imitation of the Roman consul, to whom an offer was made, by one of King Pyrrhus' subjects, to poison that dangerous enemy; the consul sent

the traitor to the king with an account of the offer. Likewise a Grecian government rejected an offer, which, if accepted, would have delivered them from a dangerous foe, merely because Aristides informed them, though it would be effectual, it would be unjust, and they would not so much as receive the communication of what the offer was. There are some laws universally received by all civilized nations, and among these there are some that are considered of force, even between nations in open hostility; the assassination of princes or other rulers by those who live under their protection, and as such have access to their persons, is so execrable, that the encouragers of it are, by the general law of all civilized nations, considered as common enemies to all mankind; and in so clear a case as that, the law of nations is part of the law of this country, and so declared by Lord Hardwicke and Lord Mansfield, in a case not more atrocious than the present, 3 Burr. 1481, and 4 Burr. 2016: and in the preamble of the Stat. 7 Anne, c. 12, it is recited that the several actions then depending against the ambassador of Peter the Great were contrary to the law of nations; and that is mentioned amongst the reasons for enacting that they should be vacated and cancelled; and yet there was no municipal law, prior to that statute, by which they were void: this act of parliament was necessary for preventing war with this great emperor. The present case is more atrocious, and the mischief more extensive, and the consequences more dangerous, than that of a war, even with so great a power as that of Russia; for it is necessary to prevent the nation being devoted to destruction by all who might deem them guilty of so foul an act, if they acquiesced under the charge without any vindication. There are many maxims of law, but there is one that is sovereign, "*Salus populi suprema lex esto.*" This maxim is recognised by the Law of the Twelve Tables, Cicero de Legibus, lib. 3, sec. 3, which were derived from the Grecians, and, as far as can be traced, is coeval with human society; therefore so clear a case as the present cannot want the aid of precedents; but if it did, the above opinions and act of parliament are sufficient for all that is contended for, because in this particular instance, an *ex post facto* law is, for the reasons, alleged, more reasonable than in that above mentioned, or than the *ex post facto* law for banishing Atterbury, Bishop of Rochester, or than several other *ex post facto* laws.

Yours, &c.

G. HILL,

King's Ancient Serjeant at Law."

Willes, chief justice of the Common Pleas, though a good lawyer, was scarcely fitted by his habits and character for

the high post to which he was appointed. He was greatly disliked by the Pelhams and Lord Hardwicke; but he was befriended by Sir Robert Walpole, to whom he owed his elevation. Willes was a gambler and a debauchee, and so little did he disguise his taste, that, on one occasion, he was seen playing cards in the public rooms at Bath. Here he was recognised by a young barrister, who resolved to annoy him. Feigning intoxication, he rolled up to the table where his lordship was sitting, and getting behind his chair, looked over his hand. On this Willes turned round in a tremendous passion, and gave the intruder a severe rebuke. "Sir," said the barrister, pretending to stagger, "I beg your pardon—but I want to—improve—in whist playing;—so—so—I came—to look—at your playing;—for—if—if—I'm not—mistaken, sir,—you're a *judge*!"—Willes would not readily tolerate the impertinence of any one who ventured to remind him of the inconsistency of his conduct with the dignity he ought to preserve on account of his judicial character. A person once called at his house to apprise him that many scandals were in circulation, impeaching his moral character. "Why, my lord, all the world says that one of your maid-servants is with child!" "Well, sir," replied Willes, coolly, "and what is that to me?" "Oh! my lord, but they say that it is by your lordship!" "Well, sir, and what's that to you?" was the reply of the chief justice, on which the abashed mentor slunk out of the room.—Dr. Johnson tells a story of Willes's "trying a lady of easy virtue," one Miss Betty Flint, for stealing a counterpane; but his lordship summed up favourably, and the fair prisoner was acquitted. From an examination of the Sessions Papers, it would appear that there is some mistake in this last particular.—When he was appointed to the bench, Willes took leave of the society of Lincoln's-Inn, of which he had been a member. The attorney-general, Sir John Strange, made a long speech, in which, according to custom, he lauded the new judge in old phrases; and, when he had done, Willes turned round, and said he felt excessively grateful for all the fine encomiums which had been bestowed on him, who so little merited them, and he begged permission to conclude with a very honest declaration from the highest authority: "The lot has fallen unto me in a fair ground; yea, I have a goodly heritage."—Willes had so great an aversion to attorneys, that they used to shun his court, and carry all their business into the King's Bench, where Yorke's filial piety, as Horace Walpole observed, "would not refuse an asylum to his father's profession."

Robert Henley, Lord Northington, is far better known by his personal peculiarities than by his merits as a Chan-

cellor. In the early part of his life he was conspicuous for the warmth of his devotion to "Bacchus, jolly god of wine." His excesses in this way subjected him, in an after period, to repeated and severe attacks of gout. When suffering from one of these, he was heard to mutter to himself, while walking from the woolsack to the bar, "If I had known these legs of mine were meant to carry a Lord Chancellor, I would have taken better care of them when I was a boy."—He is said while at the bar to have displayed "lively parts, and a warm temper." Horace Walpole says that he was "a lawyer in vogue, but his abilities did not figure in proportion to the impudence of his ill-nature." There is probably some malice and much truth in this character. A ludicrous anecdote is related of him whilst on the western circuit, but which certainly displays him in a more amiable light. In a trial at Bristol he had to examine a Quaker named Reeve, a merchant of some consequence in that city. As he was a hostile witness, Henley of course did not spare his wit or raillery. After the cause was over, and the lawyers were all dining together at the "White Hart," Mr. Reeve sent one of the waiters to let Mr. Henley know that a gentleman wanted to speak to him in an adjoining room. As soon as Mr. Henley had entered the room, Mr. Reeve locked the door, and put the key in his pocket. "Friend Henley," said he, "I cannot call thee, for thou hast used me most scurrilously. Thou mightst think, perhaps, that a Quaker might be insulted with impunity; but I am a man of spirit, and am come to demand, and will have, satisfaction. Here are two swords—here are two pistols—choose thy weapons, or fight me at fisty-cuffs, if thou hadst rather; but fight me thou shalt, before we leave this room, or beg my pardon." Mr. Henley pleaded in excuse that it was nothing more than the usual language of the bar; that what was said in court should not be questioned out of court; that lawyers sometimes advanced things to serve their clients, perhaps beyond the truth, but such speeches died in speaking; that he was so far from intending any insult or injury, as really to have forgotten what he had said, and hoped the other would not remember it; upon his word and honour he never meant to give him the least offence, but if undesignedly he had offended him, he was sorry for it, and was ready to beg his pardon, which was a gentleman's satisfaction. "Well," said Mr. Reeve, "as the affront was public, the reparation must be so too; if thou wilt not fight, but beg my pardon, thou must beg my pardon before the company in the next room." Mr. Henley, with some difficulty, and after some delay, submitted to this condition, and thus this fray ended.

No farther notice was taken on either side, till after some years the Lord Chancellor wrote a letter to Mr. Reeve, informing him that such a ship had come, or was coming, into the port of Bristol, with a couple of pipes of Madeira on board consigned to him. He, therefore, begged of Mr. Reeve to pay the freight and the duty, and to cause the wine to be put into a wagon, and sent to the Grange, and he would take the first opportunity of defraying all charges, and should think himself infinitely obliged to him. All was done as desired; and the winter following when Mr. Reeve was in town, he dined at the Chancellor's with several of the nobility and gentry. After dinner the Chancellor related the whole story of his acquaintance with his friend Reeve, and of every particular that had passed between them, with great good humour and pleasantry, and to the no little diversion of the company.

Henley owed his elevation to an accident. When the Pitt and Fox ministry came in, in 1757, the Great Seal was offered successively to Lord Hardwicke, Lord Mansfield, Sir Thomas Clarke, Chief Justice Willes, and Sir John Wilmot. They all, however, declined it. The ministry had then no other alternative but to raise the Attorney-General Henley to the woolsack. "There is an amusing anecdote," says Lord Henley, "respecting this transaction, current in the profession, and which the late Lord Ellenborough used to relate with his characteristic humour. Immediately after Willes had refused the seals, Henley called upon him at his villa, and found him walking in his garden, highly indignant at the affront which he considered that he had received in an offer so inadequate to his pretensions. After entering into some detail of his grievances, he concluded by asking whether any man of spirit would, under such circumstances, have taken the seals, adding, 'Would you, Mr. Attorney, have done so?' Henley, thus appealed to, gravely told him that it was too late to enter into such a discussion, as he was then waiting upon his lordship to inform him that he actually had accepted them." Henley held them as Lord-Keeper, without a peerage, until Lord Ferrers' trial in 1760, when he was created Baron Henley. On the accession of George III., he surrendered the Great Seal, which was returned to him as Lord Chancellor, and within a few months he was created Earl of Northampton. Like Thurlow, Lord Northampton was a devoted convivialist. George III. used to relate, with his accustomed humour, the mode in which he asked permission to abolish the Chancellor's evening sittings on Wednesdays and Fridays during term, in order that he might have time to finish his bottle comfortably at his leisure. So admirable a reason



could not, of course, be resisted; and his Majesty immediately granted the required permission. He also resembled Lord Thurlow, in that he was "given to swearing." When returning from the House of Lords in his ponderous state coach, every jolt of which, as it rumbled along, caused infinite pain to his gouty extremities, the agonised Chancellor has been heard to utter "curses *both* loud and deep." The majesty of the mace and seals had no effect in checking the expression of his sensations. His friends have declared that the woolsack was not always held sacred. Mr. Speaker Onslow, who was remarkable for his gravity, one day complained to a friend in the House of Commons that on his way down he had been stopped in Parliament-street by the obstinacy of a carman. His friend told him that he had heard the Chancellor had been detained some minutes by the same cause. "Well," said the Speaker, "and did not his lordship show the wrong-headed wagoner the mace, and strike him dumb with terror?" "Not at all," was the reply, "he did nothing of the sort; but he swore by G— that if he had been in his private coach he would have got out and thrashed the d—d rascal to a jelly."

Anstey has celebrated him, under the name of "Lord Ringbone," in his "New Bath Guide." A young visitor who is in the same lodgings with his lordship, takes to practising dancing, much to his annoyance:—

"Lord Ringbone, who lay in the parlour below,  
On account of the gout he had got in his toe,  
Began on a sudden to curse and to swear—  
I protest, my dear mother, 'twas shocking to hear  
The oaths of that reprobate gouty old peer—  
'All the devils in hell sure at once have concurred  
To make such a noise here as never was heard;  
Some blundering blockhead, when I'm in bed,  
Treads as hard as a coach-horse, just over my head;  
I cannot conceive what the plague he's about:  
Are the fiddlers come hither to make all this rout  
With their d—d squeaking catgut, that's worse than the gout?  
If the aldermen bade 'm come hither, I swear,  
I wish they were broiling in hell with the mayor;  
May flames be my portion, if ever I give  
Those rascals one farthing as long as I live."

Lord Henley, his grandson, says of this Chancellor, that "the only exception to his almost universal kindness was in his manner towards his son, with whom his deportment was marked by a stately reserve and coldness." But it was marked with something more. When upon his death-bed, he desired his gardener to cut down a clump of trees, simply be-

cause his son was fond of them. The gardener, ~~anxious not~~ to offend the son, and every moment expecting the ~~earl's de-~~ cease, neglected to obey this order. When Lord Northington learnt this, he sent for the gardener, and thus addressed him:—"So, d—n you! you have not done as I ordered you; you think I am going; so I am, and be d—d to you, but you shall go first. Here, strip this fellow, and kick him out of doors!"—Lord Henley claims for his ancestor the merits of a religious character. He says, amongst the manuscripts he left behind him, were two beautiful prayers composed for the use of his wife.\* It has, however, been asserted, that he maintained his habit of using oaths to the last. When on the point of death he is said to have exclaimed, "I'll be d—d if I'm not dying!" During his sickness, his wife, daughters, and some female friends coming into his room to ask after his health, could not refrain from weeping. "Surly Bob," as he was called, on seeing this, roared out to his nurse, "Turn out all those snivelling fools, except Bridget!"—The following anecdote is understood to refer to Lord Northington at the time he was Lord-Keeper of the Great Seal. Stepping into his carriage one day on his return home from the House of Lords, where one of his decrees had just been reversed, he ordered his coachman to drive fast over the stones, adding to the gentleman with him, "The noise will drive all disagreeable ideas out of my head!" The plan succeeded very well, till an old woman crossing St. Martin's-lane, caused the coachman to pull up. The Lord-Keeper finding the coach stop, desired the purse-bearer to inquire the reason from the coachman, who replied, "I knew my master would not have me kill the poor old woman. She was almost under the horses' feet." The Keeper, finding the woman was no longer in danger, exclaimed, "Suppose we had killed her,

\* In his last illness he sent for the Marquis of Carmarthen, a man of great piety, who, though surprised at the message, waited upon him, and begged to know in what way he could assist his lordship. "I sent for you," said Lord Northington, "to beg you to recommend me to some able parson, whose advice I might safely take in regard to the necessary settlement respecting the future welfare of my soul, which I fear will shortly be ejected from my body." "My lord," replied the marquis, "I am surprised at the question; as Chancellor, your lordship has had the disposal of much church preferment, which, doubtless, you always bestowed on pious and deserving persons. For instance, what do you think of Dr. —?" "Oh, name him not," loudly exclaimed the Chancellor, "that is one of my crying sins. I shall certainly be d—d for making that fellow a dean!"

friends would have taken her to the House of Lords, they would undo all we have done."

One dirty day, whilst walking along Parliament-street, very plainly dressed, the Chancellor picked up a handsome ring, which was, according to custom, immediately claimed by one of the fraternity well known as ring-droppers. This gentleman feigned exceeding delight at recovering an article of such value, and begged the Chancellor, whose person he evidently did not recognise, to accompany him to a neighbouring coffee-house, and partake of a bottle of wine. To this Lord Northington, who was fond of a joke, readily assented, and they adjourned to a tavern in the neighbourhood, where they discussed the news of the day over a bottle. They had not been seated long before other gentlemen entered, all of whom, the Chancellor observed, were acquainted with his friend. The conversation on this became general, when at last one of the company proposed a game of hazard, to which another objected, and remarked in an under-tone of voice, which, however, did not escape his lordship's ears; "D—n the loaded dice—he is not worth the trouble—pick the old flat's pocket at once!" Upon this the Chancellor discovered himself, and assured the company if they would confess why they supposed him such an immense flat he would say nothing to the police about them. One of them replied, "We beg your lordship's pardon, but whenever we see a gentleman in *white* stockings on a *dirty* day, we consider him a regular pigeon, and pluck his feathers, as we should have plucked your lordship's."

Lord Thurlow, by his natural disposition, was utterly disqualified, one would have thought, for discharging the duties of a judge, or performing the part of a courtier. His violent and often ungovernable temper—which, in its subdued moods, deserves the name of surliness, or bluntness—seemed to form an insuperable impediment to success in either of these capacities. Yet despite it Lord Thurlow was a supple and pliant courtier; and, although his learning has possibly been overrated, an able and impartial judge. He showed the natural fierceness of his disposition when quite a boy. Dr. Donne, one of the prebendaries of Canterbury cathedral, held a living somewhere in the neighbourhood of Thurlow's father, with whom he became intimate. Having observed that young Thurlow was rough and overbearing, he obtained his father's permission to send him to Canterbury school, with the master of which he had had a quarrel, in the hope that the intractable temper and fearless insolence of the future chancellor would render him a constant source of annoyance to the unfortunate master. This plan, so creditable to its designer, is said to have succeeded most

admirably; and Thurlow realized every expectation that the reverend prebendary had formed respecting his powers of teasing.

At Cambridge he became notorious for the daring he displayed in setting the discipline of his college at defiance, and in exhibiting a most supreme contempt for the persons and character of those by whom that discipline was maintained and enforced. Upon one occasion, having been guilty of some act of insubordination, he was summoned before the Dean, who, as a punishment for his offence, desired him to translate a paper of the *Spectator* into Greek, and when he had done so, to bring the translation to him. The first part of this order Thurlow obeyed: the second he disregarded. He easily performed the task imposed; but, to exasperate the Dean, whose deficiencies in classical learning were notorious, carried his translation to one of the tutors. When the Dean heard of this, he assembled all the resident fellows of the college, and sent for Thurlow. Upon Thurlow's entering the room, the Dean thus addressed him:—"How durst you, sir! carry your translation to Mr. —, when I desired you to bring it to me?" Thurlow replied, with the greatest composure, "That he had done so from no motive of disrespect to the Dean, but really from a compassionate wish not to puzzle him." The enraged Dean immediately desired him to quit the room, and then turning to the fellows present, declared that Thurlow ought to be either expelled or rusticated. Some one, however, wisely suggested that if publicity were given to the transaction, the reputation neither of the Dean nor of the college would be much benefited; and that it would be far more prudent to let the matter drop, than attract further notice to it. This advice was followed.—With this Dean, Thurlow appears to have been involved in constant warfare. Upon another occasion, when summoned before him to answer some charge, Thurlow's demeanour was not quite so respectful as the Dean considered befitted their relative stations, and rather sharply reminded him that he was speaking to the Dean of his college. Thurlow, in nowise abashed at this reproof, assumed a mock reverential air, and in every sentence of his vindication took care to insert "Mr. Dean," until the irate dignitary was compelled to dismiss both the accusation and the accused. At length, however, Thurlow received a friendly recommendation to withdraw himself from the University, in order to prevent the necessity of a formal expulsion, and so he left Cambridge without a degree. But Thurlow, though rough, harsh, and violent, was not bad-hearted. When he had become Chancellor, he sent one morning for his old friend

the Dean, who had not forgotten, it is said, their ancient enmity. Upon his entry, the Chancellor accosted him—"How d'ye do, Mr. Dean!" "I have quitted that office, my lord," said the reverend divine, rather sullenly, "I am *Mr. Dean*, no longer." "Well, then," said his lordship, "it depends upon yourself whether you be so again. I have a deanery at my disposal, to which you are heartily welcome."

Crabbe, soon after he came up to London, a poor penniless adventurer, sent a copy of verses to the Chancellor, with a letter imploring the honour of his patronage. To this application Thurlow made a cold reply, regretting that his avocations did not leave him leisure to read verses. Crabbe, stung with this repulse, addressed to him "some strong but not disrespectful lines, intimating that in former times the encouragement of literature had been considered as a duty appertaining to the illustrious station he held.\* Of this effusion the Chancellor took no notice whatever." After Crabbe had, through the discriminating goodness of Burke, been relieved from the immediate pressure of distress, he received a note from Thurlow inviting him to breakfast the next morning. He was received by the Chancellor with more than ordinary courtesy. "The first poem you sent me, sir," said Thurlow, "I ought to have noticed, and I heartily forgive the second."† They breakfasted together, and at parting his lordship put a sealed paper into Crabbe's hand, saying, "Accept this trifle, sir, in the meantime, and rely on my embracing an early opportunity to serve you more substantially when I hear you are in orders." The paper contained a bank-note for a hundred pounds. The promise Thurlow made at that time he soon performed. When Crabbe was qualified to hold church preferment, he received an invitation to dine with the Chancellor. After dinner, addressing the poet, his lordship told him that "by

\* The days when it was held the duty of ministers to encourage literature had been long past. The story of Maurice and William Pitt is well known. Maurice obtained permission from Pitt to dedicate to him his "*History of Hindostan*." When the book was published, the historian called in Downing-street to thank his patron for the honour he had done him. After expressing, perhaps in style somewhat oriental, his gratitude for the favour conferred, he was rather mortified at the minister dismissing him with a distant bow, and the cold compliment of—"The favour was to me, sir?"

† Perhaps Thurlow's conduct is explained by the following sentence in one of Cowper's letters:—"Thurlow will give grudgingly, in answer to solicitations, but delights in surprising those whom he esteems with his bounty."

G— he was as like parson Adams as twelve to a dozen," and that he should give him two livings in Dorsetshire, that had just become vacant.

One day he was sitting in his private room to hear some application at the time that the Lords were assembling in their House. Being unable to commence business without their Speaker, they desired Mr. Quarme, deputy-usher of the Black Rod, to go to the Chancellor and tell him the Lords were assembling. Mr. Quarme went and delivered his message. "Umph," was the only reply which the Chancellor vouchsafed. The deputy-usher returned to the House; some time passed, and Lord Thurlow did not make his appearance. A peer went down to Mr. Quarme, and begged him to go again and tell the Chancellor plainly that the Lords were waiting for him, that the hour appointed for the House meeting had long passed, and that they could wait no longer. The deputy-usher returned to the Chancellor, and, with some emphasis, repeated the message with which he was charged. The Chancellor deigned no other reply than his accustomed growl. "But, my lord," said Quarme, with some warmth, "I must have your lordship's answer. The Lords are waiting!" "D—n the Lords," said Thurlow quickly, fixing a look of rage on the usher. "You may d—n the lords as much as you like," exclaimed the undaunted official, "but I'm d—d, were you twenty times Chancellor, if you shall d—n me!" The Chancellor gazed with astonishment at Quarme—the audacity of a mere servant of the house thus bearding its chief excited his amazement: at length his features expanded into a smile, and rising from his chair, he exclaimed, "By Jove, you are a bold fellow: come and dine with me to-morrow." "And so I will," replied Quarme; with whom, ever after, the Chancellor continued on terms of friendship.

As Speaker of the House of Lords, Thurlow was distinguished for the dignity with which he enforced the rules of debate. Upon one occasion he called the Duke of Grafton to order, who, incensed at the interruption, insolently reproached the Chancellor with his plebeian origin, and recent admission into the peerage. Previous to this time Thurlow had spoken so frequently, that he was listened to by the house with visible impatience. When the duke had concluded his speech, Thurlow rose from the woolsack, and advanced slowly to the place whence the Chancellor generally addresses the house; then fixing upon the duke the look of Jove when he grasps the thunder—"I am amazed," he said, in a level tone of voice, "at the attack which the noble lord has made upon me. Yes, my lords," consider-ly raising his voice, "I am amazed at his grace's speech.

The noble duke cannot look before him, behind him, or on either side of him, without seeing some noble peer who owes his seat in this house to his successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these, as to being the accident of an accident? To all these noble lords, the language of the noble duke is as applicable and as insulting as it is to myself. But I do not fear to meet it single and alone. No one venerates the peerage more than I do; but, my lords, I must say the peerage solicited me, not I the peerage. Nay, more, I can say, and will say, that as a peer of parliament, as Speaker of this Right Honourable House, as Keeper of the Great Seal, as guardian of his Majesty's conscience, as Lord High Chancellor of England, nay, even in that character alone in which the duke would think it an affront to be considered, but which none can deny *me*—as a MAN, I am at this moment as respectable—I beg leave to add, I am at this moment as much respected—as the proudest peer I now look down upon.” “The effect of this speech,” says Mr. Butler, “both within the walls of parliament, and out of them, was prodigious. It gave Lord Thurlow an ascendancy in the house which no Chancellor had ever possessed; it invested him, in public opinion, with a character of independence and honour; and this, although he was ever on the unpopular side of politics, made him always popular with the people.”

It is related that in 1782, when Lord North resigned, the King determined to withhold from him the pension usually granted to a retiring prime minister. Thurlow, then Chancellor, represented to his Majesty that Lord North was not opulent, that his father was still living, and that his sons had spent a great deal of money. The King answered, “Lord North is no friend of mine.” “That may be, Sir,” replied Thurlow, “but the world thinks otherwise; and your Majesty's character requires that Lord North should have the usual pension.” The King, convinced his Chancellor was in the right, at last gave way. This conduct was not forgotten by Lord North. When the Coalition Ministry came into power in 1783, Lord North became Secretary of State for the Home Department. Fox having resolved to get rid of Thurlow, North received the King's commands to write to the Chancellor, desiring him to surrender the Great Seal. North positively refused to comply with this order, saying, “When I retired last year, Lord Thurlow was the man who prevented my retreat from being inconvenient to me. Shall the first act of my return to office be to give Lord Thurlow pain? I will not do it!” The King was amused at Lord North's pertinacity, and

observed, that "while he kept secretaries, he certainly was not bound to write his own letters." Lord North persisting, Mr. Fox was at last obliged to undertake the matter himself, although it did not come within his department. Fox discharged this duty, it is said, in a very harsh manner; which is strange, for harshness was foreign to Fox's character, and Thurlow it is known entertained by no means an unfriendly opinion of him.

During Lord North's administration in 1781, Fox always expressed himself in the House of Commons in terms of the highest esteem for Lord Thurlow. Whilst he was launching his invectives against the ministry, he spoke of the Chancellor in very different terms. Of him he said, "He is able—he is honest—he possesses a noble and independent mind—he stands alone as part of such an administration." "His colleagues," he said upon another occasion, "detest him for his virtues. . . . They seize every occasion to render his position uneasy." Only a few days before the resignation of the North administration in 1782, Fox said that "Lord Thurlow showed to the world that he had no share in the measures of the ministry." It has been said that Thurlow was unconsciously the means of furnishing Fox with much valuable information respecting ministerial tactics. For, sullen and morose as he was, the Chancellor was much addicted to convivial enjoyments; and when participating in pleasures of this description, was far from preserving a very strict control over his tongue. In fact, when carousing with the choice wits that used to assemble at the table of Rigby, then Army Paymaster, Thurlow used to express his opinions on men and measures with unreserved freedom: some of these opinions, no doubt, reached Fox's ears; who, when he found that the Chancellor had formed the chief impediment to the formation of the Coalition Ministry, made no scruple in compelling him to give up the Great Seal.

Thurlow's convivial habits on one occasion exposed him to some peril. He had dined with Mr. Jenkinson, at his seat near Croydon, together with Dundas and Pitt (then Chancellor of the Exchequer), and returned home with them in the evening on horseback. When the party, who were all tolerably merry, reached the turnpike-gate between Tooting and Streatham, they found it open. Having no servant with them, they determined to pass through without paying the toll. The keeper, awaked by their horse-hoofs as they galloped through, sprung up, and ran into the road, and finding they did not stop when he hallooed, discharged his blunderbuss after them, fortunately without effect. He took them, it seems, for a gang of highwaymen



that had been committing depredations in the neighbourhood. The story afterwards got about, and excited much amusement.\*

For some time before Lord Thurlow was a second time deprived of the Great Seal he lived on unfriendly terms with Mr. Pitt.† Mr. Nicholls who was intimate with him, never could discover the cause of this. He mentions that, in conversation with him, Lord Thurlow observed, "When Mr. Pitt first became prime minister it was a very unpleasant thing to do business with him; but it afterwards became as pleasant to do business with him as with Lord North." It is not difficult to account for Pitt's conduct. In the first place, it has been pretty well established that, during the king's illness in 1788, Thurlow entered into negotiations with the prince's party, in order that the change of men and measures, then anticipated, might not affect his retention of the Great Seal. His visits to the King afforded him great facilities for communicating with the heir apparent and his friends, without exciting the suspicions of his own colleagues. But his inadvertence betrayed to them a secret they could hardly otherwise have learnt. He made his appearance one day in the apartment of the palace where the council was sitting without his hat; and when some one remarked on it, he incautiously said that he supposed he must have left it in the other room. The looks of those present immediately made him aware of his false step, but it was too late to retrace it.‡

\* The author of the "Rolliad" has thus celebrated this ludicrous adventure: alluding to Pitt, he says,

"How, as he wandered darkling o'er the plain,  
His reason drown'd in Jenkinson's champagne,  
A rustic's hand, but righteous fate withstood,  
Had shed a premier's for a robber's blood."

† Thurlow did not altogether like the tone of conscious superiority which the youthful prime minister assumed towards him. Once, at table, Pitt was expatiating on the superiority of the Greek over the English language; and cited, as an instance, the fact that two negatives made a thing more positive than one affirmative could do. "Then your father and mother," exclaimed Thurlow, in his gruff style, "must have been two negatives, to have made such a positive fellow as you are."

‡ The cabinet squabbles between Thurlow and Pitt soon became known. "The account I gave of them," says Mr. Bentham, "was expressed by three words, 'Le Chancelier chancele;' and the truth of the intelligence was not long after demonstrated by the result." Bishop Watson complains of Thurlow's unfairness in a debate respecting the Regency?—The reverend lord, in support

In the second place, it is to be remembered that Lord Thurlow always claimed for himself the distinctive epithet of "The King's friend," believing that he held his office rather in virtue of the King's personal regard, than at the recommendation, or by the wish of the prime minister. A pretension of this kind could never be endured by a statesman like Pitt, although he might know it was but a mere pretension. Lord North told Mr. Nicholls, "Your friend, Lord Thurlow, thinks that his personal influence with the King authorizes him to treat Mr. Pitt with *humeur*. Take my word for it, whenever Mr. Pitt says to the King, 'Sir, the Great Seal must be in other hands,' the King will take the Great Seal from Lord Thurlow, and think no more about him." Thurlow had calculated differently his Majesty's feelings towards him. Speaking of him in the House of Lords, at the time of his first illness, he said with tears in his eyes, "My debt of gratitude to his Majesty is ample for the many favours which he has conferred upon me, and when I forget it, may God forget me!"\* When Wilkes heard of this speech, he exclaimed, "God forget you! He'll see you d——d first!" Lord North's prediction was speedily verified, and by the advice of Mr. Pitt, Lord Thurlow was deprived of the Chancellorship.

Thurlow was severely mortified at his dismissal. "No man," said he, "has a right to treat another in the way the King has treated me. We cannot meet again in the same room." The following account is given by Sir John Sinclair of the manner in which Lord Thurlow was dismissed:—"None of the ministers seemed willing to be the person to demand the Seals (which it was desirable should be done personally), from the ungracious reception which it was supposed he would meet with. At last Lord Melville was prevailed upon to undertake the task. He adopted the following plan for that purpose. The evening before he sent a note to the Chancellor, informing him that

the prince's rights, quoted a passage from Grotius. "The Chancellor, in his reply, boldly asserted that he perfectly well remembered the passage I had quoted from Grotius, and that it solely respected natural, but was inapplicable to civil, rights. Lord Loughborough, the first time I saw him after the debate, assured me that before he went to sleep that night he had looked into Grotius, and was astonished to find the Chancellor had, in contradicting me, presumed on the ignorance of the House, and that my quotation was perfectly correct."

\* Burke said that the tears Thurlow shed upon this occasion, "more like the dismal bubbling of the Styx, than the gentle purring streams of Aganippe."

he proposed having the honour of breakfasting with him next day, and that *he had some very particular business to settle with him*. On his coming next morning, Lord Thurlow said to him, 'I know the business on which you have come. You shall have the bag (purse) and Seals. *There they are,*' pointing to a table on which he had placed them, 'and there is your breakfast,' of which they partook very sociably together. Lord Melville said that he never saw Lord Thurlow in better humour, and they parted, apparently, very good friends."

As a judge, he has usually been rated very highly, but the tendency of modern opinion has been to estimate him somewhat lower. When on the bench, he is said to have restrained with difficulty those forms of expression which, though habitual to him, hardly suited the dignity of his office. He disliked, and always checked in his court, any tendency to what is sometimes called eloquence. He once cut short a flowery advocate in the middle of a metaphor, and bid him read his brief. His behaviour towards the bar was rough and uncouth, but not overbearing. On the day before the court rose for a long vacation, the Chancellor was leaving without making the then customary valedictory address to the bar; he had nearly reached the door of his room when a young barrister said to a friend, in a loud whisper, "He might, at least, have said 'd—n you!'" Whether Thurlow overheard this remark, or whether, until that moment, the matter had escaped him, we cannot tell; but he returned to his chair, and made the usual complimentary speech.

At the council-board he was both wayward and timid. Pitt used to declare that "he proposed nothing, opposed everything, and agreed to nothing"—a character like that which a Spanish historian gave of the unfortunate prince Don Carlos. "He was," he said, "*Non homo sed discordia,*" not a man, but the spirit of discord personified. Very often matters of state were discussed at the cabinet dinners, and Thurlow, when the cloth was cleared, refusing to join his colleagues in their deliberations, would get up, quit the table, and stretching himself at full length on three chairs, would go to sleep, or at least affect to do so. With such a colleague as this, Pitt, it cannot be supposed, could have much community of feeling. The dislike, however, seemed to have been mutual. Thurlow very freely expressed his opinion on Pitt's conduct, in supporting the opposition in the impeachment of Warren Hastings. The grounds on which Mr. Pitt supported the impeachment differed substantially from those on which the opposition proceeded. Pitt grounded his support on the fact, that the conduct whic

Hastings pursued towards Cheyt-Sing (whom he considered as a criminal, but whom the Whigs regarded as an oppressed prince) showed an *intention* of punishing him too severely. "This *intention*," Pitt contended, "was criminal; and for this *intention* he should vote for the impeachment." When Lord Thurlow heard of Pitt's reason for supporting Mr. Burke's motion, he reprobated with vehemence the injustice of grounding an impeachment on a mere *intention*. "If a *girl*," he said, in his growling style, "had talked law in these terms, it might have been excusable."

Of Lord Thurlow's private character, little can be said to his credit. When young, he was guilty of the wildest excesses. Even as a schoolboy, he indulged in the greatest license. It was to this fact that the Duchess of Kingston alluded, when on her trial for bigamy before the House of Lords. Looking the Attorney-General (Thurlow) full in the face, she said, "That the learned gentleman had dwelt much on her faults, but she could assure him that she, if she chose, could also tell a *Canterbury tale*."\* By Mrs. Harvey, who lived with him, he had three daughters. His mistress, however, never obtained any improper influence with him in the disposition of patronage. Shortly after his accession to office, one of the Commissioners of Bankrupts having made application to her to secure the Chancellor's assent to his insertion in the new commission, then about to be made out, it came to Thurlow's ears, and the applicant was the only individual who was omitted in the new commission. Thurlow has been suspected of having not

———— "receiv'd

For gospel all the church believed."

This charge his brother, the Bishop of Durham, used to declare to be a foul calumny. To some one who repeated it to him, the right reverend prelate observed, "Ah! my dear sir, I see you participate in the general error—oh, yes! I assure you it is an error—a very lamentable error; for I can declare to you, on my own personal knowledge, no one places greater confidence in the truths of religion than my brother. Often, sir—very often indeed—have I been sitting beside him, when he has been suffering from severe twinges of the gout, and I can assure you, with every twinge he exclaimed, "Oh, God! good God!"

To Lord Alvanley, the Master of the Rolls, Thurlow bore a strong dislike, and he offered every obstacle to his appointment. Indeed, he would not consent to it until a warrant was actually in preparation for putting the Great

\* Thurlow had a son by a daughter of a Dean of Canterbury, to whom he was *said* to have been married.

Seal into commission. To show his dislike to the new Master, after he was seated Thurlow would often absent himself from the Court of Chancery, naming Mr. Justice Buller as his substitute. One day, Lord Alvanley finding himself seriously unwell, sent his respects to the Chancellor with an expression of regret, that extreme indisposition would prevent his sitting that day at the Rolls. "What ails him," asked Thurlow, in a voice of thunder, of the bearer of the message. "If you please, my Lord, he is laid up with dysentery." "D—— my ——!" exclaimed Thurlow, "let him take an act of parliament and swallow that—he'll find nothing so binding!"

Soon after he was made Lord Chancellor, Thurlow said to his brother, "Tom, there is to be a drawing-room on Thursday, where I am obliged to attend, and I have purchased Lord Bathurst's coach, but have no leisure to give orders about the necessary alterations; do you see and get all ready for me." Tom complied; but when the carriage came to the door, remembered that the armorial bearings on the panels had not been altered. Knowing his brother's hasty temper, he immediately devised an expedient for preventing the discovery of his omission: he directed the door to be held open until the Chancellor arrived and had taken his seat. When Thurlow had done so, he examined the interior of the coach, and fully satisfied with his survey, held out his hand to his brother and exclaimed "Brother, the whole is finished to my satisfaction, and I thank you." The same expedient, as to the door, was resorted to on his return, and with the same success.

Lord Thurlow was nick-named the "Tiger;" the "Bear" would have been a more appropriate designation. When stopping at the house of a nobleman in the country who was famous for his conservatory, he complained of illness. A walk through the gardens was proposed. During the walk, the party entered one of the hot-houses, and some one asked Thurlow if he would take some grapes. "Grapes! grapes!" growled the Chancellor, "why, didn't I tell you I'd got the gripes?"—When the Chief Justiceship of Chester was vacant, Mr. Davenport, who was intimate with the Chancellor, wrote him this brief epistle. "The Chief Justiceship of Chester is vacant. Am I to have it?" The answer of Thurlow was equally concise: "No; by G—! Kenyon shall have it." He was consulted by Pitt as to the fittest person to be appointed to succeed Lord Kenyon at the Rolls. "I don't care whom the devil you appoint," said he, "so that you don't appoint some one who, instead of lightening my load, should heave his d——d wallet on my back." He was once waited on by a deputation of dis-

senters, to request him to vote for the repeal of the Test Act. When the deputation (who came by appointment) arrived, they were asked into the Chancellor's library, where a plentiful collation awaited them. At length Thurlow appeared, when, gratified by their reception, they made a long harangue, to which he made a short reply in these words: "Gentlemen, you have called on me to request my vote for the repeal of the Test Act. Gentlemen, I shall not vote for the repeal of the Test Act. I care not whether your religion has the ascendancy or mine, or any, or none; but this I know, that when you are uppermost you will keep us down, and now we are uppermost we will keep you down!"—It is pleasant to be able to record an anecdote of a somewhat different character. Once at Bath, he entered the rooms booted and spurred. The master of the ceremonies approached him with some awe, and delicately insinuated that such a costume was a violation of the regulations of the rooms. Thurlow took the reproof in exceeding good part, and desiring the potentate of fashion to apologise in his name to the company assembled, immediately withdrew. Lord Thurlow had at least this merit, that if he was overbearing to his equals, and proud to his superiors, he never insulted his inferiors,\* nor treated them otherwise than with a good breeding, which, however commendable, was hardly consistent with his usual conduct. Although raised to the woolsack from political considerations, Thurlow was extremely attached to the study of the law, and is said to have sought legal occupation long after he had left office.

He was a good scholar, and patronised literary men. Potter, the translator of *Æschylus*, and Bishop Horsley,

\* One day, in crossing the Foundling fields, Lord Thurlow was overtaken by a little sweep, as sooty as little sweeps usually are. The urchin in passing his lordship touched his ruffle, which consequently assumed a hue as dark as the boy's own visage. "D—n your black face!" exclaimed the ex-Chancellor, angrily. The boy looked up at Thurlow's dark countenance—"D—n your black face, too," he shouted, and bounded off. His appearance was indeed in no way prepossessing. When a portrait of him was shown to Lavater, the physiognomist having examined it for a moment, said, "Whether this man be on earth or in hell, I know not; but wherever he is, he is a tyrant, and will rule if he can." The Duke of Norfolk had a fancy for owls, of which he kept several. He called one, from its resemblance to the Chancellor, Lord Thurlow. The duke's solicitor was once in conversation with his grace, when, his surprise, the owl-keeper came up, and said, "Please your grace, Lord Thurlow's laid an egg."

experienced the benefits of his patronage. With Hayley he became acquainted. In the first instance Hayley sent him a poem which he had published on the Revolution of 1668, but which fell still-born from the press. In acknowledgment, he received the following characteristic note from Thurlow :—

“The Chancellor presents his best respects to Mr. Hayley, and returns him many thanks for his poems. They give a *bright relief* to the subject. William is much obliged to him and Mary more ; and if it may be said without offence, Liberty itself derives advantage from this dress.”

## CHAPTER III.

## THE BAR.

It is a singular account that which quaint old Fuller gives of the Inns of Court—those legal universities—in his days. “At the Innes of Court,” he says, in his description of the ‘Degenerous Gentleman,’ “under pretence to learn law, he learns to be lawlesse; not knowing by his study so much as what an execution means till he learns it by his own dear experience. Here he grows acquainted with the Roaring Boyes; I am afraid so called by a fearful *prolapsio*, here for *hereafter*. What formerly was counted the chief credit of an oratour, these esteem the honour of a swearer, pronunciation, to mouth an oath with a graceful grace. These, as David saith, ‘cloath themselves with curses as with a garment,’ and therefore desire to be in the latest fashion, both in cloathes and curses.” Some of our great old lawyers were as great young rakes. Sir John Davies, Attorney-General in Ireland to James I., one of the most eminent lawyers of his day, when a student, “interrupted the quiet of the town by his misdemeanours, for which he was fined, and by disorders, for which he was removed from commons.” Anthony à Wood tells us of this same young rake—“That he, being a high-spirited young man, did, upon some little provocation or punctilio,\* bastinado Richard Martin, afterwards recorder of London, in the common hall of the Middle Temple, while he was at dinner. For which act being forthwith expelled, he retired for a time in private, lived in Oxon in the condition of a sojourner, and followed his studies, though he wore a cloake.”

Mr. Justice Burnet, a son of the celebrated Bishop of Salisbury, was also a dissipated Templar, and belonged to the well-known gang of the Mohocks, mentioned in the *Spectator*. In earlier times, too, when Justice Shallow “lay at Gray’s Inn,” and fought “Sampson Stockfish, a fruiterer, behind Gray’s Inn,” and “heard the chimes at midnight,” the “swash bucklers in the Four Inns of Court” were renowned above “all the cavaleroes about London.”

\* Martin, as well as Davies, appears to have been a poet, and so humorous was he, that he was wont to keep the hall table in a roar. His wit, we are told, delighted exceedingly that pedantical buffoon James I.; and it has been suggested that envy at his having attained the royal favour was the “provocation” mentioned in the ext.



The strict league that of old subsisted between the Temple and Alsatia was of the date of Coke upon Littleton—the era of profound law.

The attachment to mere forms, and the indisposition to change, to which it has been frequently affirmed lawyers have shown themselves more prone than other men, has sometimes manifested itself rather absurdly—especially in early times.

Thus, a clerk in Chancery, of the days of Cromwell, who had seen with the utmost indifference all the changes in church and state which had occurred in his times, when he was told that some new regulations were to be introduced into the Six Clerks' Office, exclaimed, "Ah! if they come to strike at *fundamentals*, where will they stop?"\* The great Lord Clarendon, in his Autobiography, mentions a circumstance which illustrates this point in the legal character. The great fire of London happened at a time of year when most of the lawyers were out of town. When the conflagration reached Serjeant's Inn (Fleet-street) and the Temple, much property was destroyed because the owners were absent, and their chambers were locked. "Many gentlemen of the Inner Temple," says Clarendon, "would not endeavour to preserve the goods that were in the lodgings of absent persons, because they said *it was against the law to break into any man's chamber.*" This is more absurd than the old story of an Oxford man saving, at the risk of his life, a fellow-collegian from drowning, and then apologising for the *liberty he had taken*, as he had not had the pleasure of having been introduced to him! Roger North gives also an absurd instance of the lawyers' attachment to mere form. In his days the Court of Common Pleas used to sit in Westminster Hall, close to the great door, in order that suitors and their train might readily pass in and out. When the wind was in the north, this situation was found very cold, and it was proposed to move the court further back to a warmer place. "But the Lord Chief Justice Bridgman," says North, "would not agree to it, as

\* Of Sir Jeffrey Palmer, afterwards Attorney-General to Charles II., and who throughout the great Rebellion preserved his loyalty intact, Roger North says:—"During all the troubles of the times he lived quiet in the Temple, a professed and known cavalier; and no temptation of fear or profit ever shook his principle. He lived then in great business of conveyancing, and had no clerks but such as were strict cavaliers. One, I have heard, was so rigid that he could never be brought to write Oliver with a great O. And it was said, the attorney chose to purchase the manor of Charleton because his master's name sounded in the style of it."

against *Magna Charta*, which says that the Common Pleas shall be held in *certo loco*, or in a certain place, with which the distance of an inch from that place is inconsistent, and all the pleas would be *coram non judice*. One of the most extraordinary reasons which any lawyer has alleged against effecting law reforms is that assigned by the Chancellor d'Aguesseau. He was once asked by the Duke de Grammont whether he had ever thought of any regulation by which the length of suits and the chicanery practised in the courts could be terminated. "I had gone so far," said the Chancellor, "as to commit a plan for such a regulation to writing; but, after I had made some progress, I reflected on the great number of *avocats*, attorneys, and officers of justice, whom it would ruin: compassion for these made the pen fall from my hands. The length and number of lawsuits confer on gentlemen of the long robe their wealth\* and authority; one must continue, *therefore*, to permit their infant growth and everlasting endurance." We do not believe that it is for any such reason that lawyers usually entertain a dislike to alterations in the law. Indeed, some of the most important measures which have from time to time been perfected for diminishing litigation have been the work of lawyers.

Upon the boldness and intrepidity of our bar depends, unquestionably, in a great degree the purity of the administration of justice. At times, however, that boldness has been pushed to the borders of impudence. In the reign of George II. one Crowle,† a counsel of some eminence, made some observations before an election committee which were considered to reflect on the House itself. The House accordingly summoned him to their bar, and he was forced to receive a reprimand from the Speaker on his knees. As he rose from the ground, with the utmost *nonchalance* he took out his handkerchief, and wiping his knees, coolly observed, "that it was the dirtiest house he had ever been in in his life."‡

\* Some of the scandal in which the profession has been involved, has originated in the shabby tricks of a few, and more in the *badinage* of the many. Serjeant Davy was once accused of having disgraced the bar by taking *silver* from a client. "I took silver," he replied, "because I could not get gold; but I took every farthing the fellow had in the world, and I hope you don't call that disgracing the profession."

† Crowle was a great humorist. On the circuit, somebody asked him if the judge was not *just behind*. "I don't know," was his reply, "but sure I am he was never *just before*."

‡ Wilmot, afterwards Sir Eardley, once appeared at the bar of the House of Commons, on a contested election. He received a

If we look to the darker periods of our history, we find how necessary it is that the language of counsel should not be limited by the standard of propriety which a Chief Justice may think right to set up. Wallop, a barrister in the reign of James II., was engaged in defending some persons accused of publishing a statement that Lord Essex had been murdered in the Tower. In the discharge of his duty, he put some questions to the witness which met with the disapprobation of Jeffreys, who bawled out, "Nay, Mr. Wallop, you sha'n't hector the court out of their understandings." "I refer myself," replied Wallop, "to all that hear me, if I attempted any such thing as to hector the court." "Refer yourself to all that hear you?" replied Jeffreys. "Refer yourself to the court. 'Tis a reflection on the Government, I tell you, your question is, and you sha'n't do any such thing, while I sit here, by the grace of God, if I can help it." Wallop, on this said, "I am sorry for that; I never intended any such thing, my lord." "Pray behave yourself," rejoined the irascible judge, "you must not think to puff or swagger here. We have got strange notions now-a-days," he afterwards observed, "that forsooth men think they may say anything because they are counsel."

Mr. Serjeant Hill was distinguished by his manly, though respectful bearing towards the court. Seeing the plaintiff in an action in which he was counsel for the defendant, sitting beside the judge on the bench, he rose, and declared "that he would not proceed while the indecent spectacle continued of a party sitting beside a judge who was about to try his cause."

It is well known that when Mr. Brougham received his silk gown, the late Lord Denman, then only plain Mr., complained at a dinner which was given to him by one of the city companies, that he had been most unfairly passed over. This remark excited much observation at the period; and it was said that he had no right to have expected other treatment, considering the coarse insinuations he uttered in his defence of the Queen before the Lords—alluding to the famous Greek quotation,\* of which so much has been said.

severe and haughty reprimand from Pitt (afterwards Lord Chatham), who told him he had brought there all the pertness of his profession, and being forbidden by the Speaker from making any reply, he flung down his brief, and never would return there again.

\* The quotation in question is taken from Dion Cassius, lib. lxii. 13, who probably translated it from Tacitus (Annal. lib. xiv. cap. 60). The same idea is to be found in one of Cicero's orations against Verres. The passage is said to have been suggested to Mr. Denman by Dr. Parr, who found it in Bayle,

Rumours of such remarks having reached Mr. Denman, he immediately waited on the Chancellor, Lord Lyndhurst, and begged him to assure his Majesty that he had never used the quotation in the sense that had been ascribed to it. This the Chancellor promised to do; but, on further inquiries, after the lapse of some months, he informed Mr. Denman that he had been unable, or had not ventured, to mention the subject to his royal master. On this, Mr. Denman obtained an interview with the Duke of Wellington, and explained the matter to him. The Duke said that he conceived he had done no more than what his duty as an advocate required; and undertook himself to bring the subject under the attention of the King. In a few days the patent was made out. This conduct, so creditable to the illustrious Duke, and so consistent with his character, we need hardly comment on. It was justly appreciated by the whole profession.

Erskine, in the Dean of St. Asaph's case, exhibited the proud spirit of an English counsel, who knows, that in the defence of his client, he is justified in using every degree of freedom which does not infringe on the respect due to the court. Mr. Justice Buller, after the jury had, through their foreman, stated their verdict, declared that its effects, as expressed, would be different from the obvious intention of the jury: Mr. Erskine, however, insisted that the verdict should be recorded as it was stated by the foreman.

*Buller.* Let me understand the jury.

*Erskine.* The jury do understand their verdict.

*Buller.* Sir, I will not be interrupted.

*Erskine.* I stand here as an advocate for a fellow-citizen, and I desire that the verdict may be recorded as given by the jury.

*Buller.* Sit down, sir; remember your duty, or I shall be obliged to proceed in another manner.

*Erskine.* Your lordship may proceed in what manner you may think fit; I know my duty as well as your lordship knows yours. *I shall not alter my conduct.*

The strictness with which the etiquette of the bar is maintained in England is owing in a great measure to an important institution, whose very name is possibly new to some of our readers: we mean the Circuit Court.

On the principal circuits it is customary to hold, at certain intervals, a court for the trial of all breaches of professional etiquette. The court is held at the circuit table, after the cloth is cleared, and the junior member of the circuit presides as recorder; the others, not being prosecutors or culprits, acting as jury. The trial takes place on presentments made by any member of the circuit. If the accused is found guilty he is fined, and the penalty is

paid into the wine fund. Formerly the fine generally was one or more bottles of wine, but now is usually in money, varying from 2s. 6d. to a guinea, and sometimes it is higher. Some of the presentments are absurd enough, and are intended only to promote mirth and good humour. An eminent advocate, who possesses the same name with a famous actor of his day, was presented for having inserted the following outrageous puff on himself in the ——— paper:—"Mr. ——— delighted us exceedingly on Monday. We do not remember to have seen so much genuine wit displayed ("on the stage," was erased) without the slightest coarseness. He is the smartest individual in his line, whose performances we have ever witnessed." A fine of half-a-crown was forthwith imposed on this vainglorious paragraph writer. The papers announce the execution of one John Smith, who had been convicted of murder. On whatever circuit there is a Mr. John Smith, he is immediately *found guilty* of being hanged, and fined accordingly for so heinous an offence. When Lord Abinger was at the bar, he presented Mr. Richardson, a great pleader, and afterwards raised to the bench, for being "the most eminent special pleader of the day!" So grave an offence demanded a severe punishment, and Mr. Richardson was accordingly amerced in a dozen of wine, which he paid with the greatest possible good humour. Other offences against the circuit laws are shaking hands with an attorney, drinking tea with his wife, dancing with his daughter, calling him in open court "a highly respectable and worthy individual," &c. To be present in an assize town before the commission-day, is also a breach of this code, punishable accordingly.

When, however, it is considered how highly essential to the respectability of the bar it is that no system even approaching to "huggery" should be countenanced, it will at once appear that these punishments, absurd as they may at first sight seem, still have a useful tendency. They serve effectually to prevent any of those petty arts by which vulgar and cunning pettyfoggers might attempt to obtain practice. It may not at first sight appear how visiting an assize town a day before the commission is opened should be regarded with severity; but when it is recollected that some pursuing such a practice might, by thus being first in the field, obtain an undue advantage over the rest of their brethren, we shall at once see the benefit of the rule. No one contributed more to the pleasure of the circuit table than the late Mr. Jonathan Raine.\* "Jonty and fun,"

\* Mr. Raine was blessed or cursed with stentorian powers of speech. Chief-Baron Thompson was once trying causes at York, and hearing a great noise at the other end of the hall, where the Crown

was an invariable toast; and we may appeal to such of our readers as have ever shared in the amusements of the circuit table, whether they have not found that such a *réunion* has a direct tendency to bring the leaders of the profession in contact with their juniors, and to produce a feeling of harmony and good-will amongst the bar which is productive of the best effects.

Without desiring in any degree to act the part of panegyrists, there is one point in the character of the bar on which we must make a few remarks. There is in that profession less of jealousy and envy than in any other. The first time the neophyte joins the circuit table he is always welcomed with warmth and kindness; and this promotes a community of regard which has tended much to raise our bar to the proud situation it holds in the country. The conduct of leaders to their juniors is, with scarcely an exception, uniformly friendly. "Arrogance," as Owen Felt-ham observes, "is a weed that ever grows upon a dunghill." The biography of our lawyers afford many instances of the advantages young men, who have afterwards risen to eminence, derived, in the early part of their life, from the fostering encouragement which they received from some of the "fathers of the bar." Noy, the Attorney-General, took great notice of Sir Matthew Hale when a student, directing and encouraging him in his studies; so much so, that Hale was commonly called "Young Noy." Serjeant Maynard used to say, that "he rose mainly, at first, by being looked upon as Mr. Noy's favourite." "To the friendship of Selden," says Clarendon, "Vaughan owed the best part of his reputation." Lord Guilford was indebted to the Attorney-General, Sir Jeffrey Palmer, and Lord Somers to the Solicitor-General, Sir Francis Winnington, for the eminence to which they respectively attained in after life. There is, in a custom pursued in most of the circuits, an evidence that this feeling is still alive:—whenever a junior acquires a certain quantity of business, and his reputation has become to a certain extent established, some queen's counsel sends him a bag. This is both a token of goodwill, and (when known) a species of recognition of his right to be considered as "a rising young man."

In former times the intercourse amongst the various members of the bar was greater than it is at present; and when we speak of former times, we go back no further than

causes were going on, called out, "Who's that man that's making such a noise, bailiff? Turn him out if he don't hold his tongue." "Oh! my lord," said Mr. Topping, "it's only a friend of ours pleading at the other end of the court!"

the last age, so fruitful as it was in accomplished advocates and learned lawyers. Dr. Dibdin, the well-known bibliographer, who was originally intended for the bar, says, "Towards evening, it was the fashion for the leading counsel to promenade, during the summer, in the Temple Gardens. Cocked hats and ruffles, with satin small-clothes and silk stockings, at this time constituted the usual evening dress. Lord Erskine, though a good deal shorter than his brethren, somehow always seemed to take the lead, both in place and in discourse, and shouts of laughter would frequently follow his dicta."

In those days, when *clubs* were unknown, a considerable portion of leisure was passed, by most individuals belonging to the middling and upper classes of society in coffee-houses. The names of "Nando's," "Alice's," "Serle's," "the Grecian," and "the Bedford," are not yet forgotten by the bar, as the places usually resorted to by lawyers in those times. It was at Nando's that Lord Thurlow obtained his first brief. "When I resided at Dean-street," says Mr. Cradock, "I frequently passed an evening with my friends at Nando's coffee-house, where I met with Thurlow, Mr. Wheeler, and many others from the Temple; for, as the phrase went, there was no one who could supply coffee or punch better than Mrs. Humphries; and her fair daughter was always admired at the bar, and *by the bar*."

Dr. Harrowby's description of Foote, who was a member of the Temple about a hundred years since, will give us a tolerable notion of the conduct and appearance of the young students who frequented these places of entertainment. "He came into the room dressed out in a frock suit of green and silver lace, bag wig, sword, *bouquet*, and point ruffles, and immediately joined the critical circle of the upper end of the room. Nobody knew him. He, however, soon boldly entered into conversation, and by the brilliancy of his wit, the justness of his remarks, and the unembarrassed freedom of his manners, attracted the general notice. The buzz of the room went round, 'Who is he? whence comes he?' To which nobody could answer, until a handsome carriage stopping at the door, to take him to the assembly of a lady of fashion, they learned from the servants that his name was Foote, that he was a young gentleman of family and fortune, and a student of the Inner Temple."\*

\* A gentleman in the country, who had just buried a relation, an attorney, complained to Foote of the great expenses of a country funeral. "Why, do you *bury* attorneys here?" gravely inquired Foote. "Yes, to be sure: how else?" "Oh! we *never* do that in London." "No!" exclaimed the other, much surprised, "why

Before the constitution of the Bail Court, under Casberd's Act, the great leaders of the bar used to wait at Alice's coffee-house, until the full court had assembled. "These meetings," observes a periodical writer, understood to be the late Mr. Adolphus, "formed a scene of most enviable social intercourse. Men of the first eminence, Erskine, Gibbs, Garrow, Park, Jekyll, Dampier, in short, all that were eminent in the profession, passed their time in free conversation on all interesting subjects; the juniors were not excluded, or kept at a distance, but communicated freely their observations and opinions; and thus the knowledge of powers which would have otherwise continued latent was acquired, sentiments of kindness and respect were created, and useful hints and instructions to the inexperienced liberally imparted."

Upon the Northern Circuit, in former days, there was nothing more remarkable than the terms of intimacy in which the counsel who went it lived together. The following anecdote illustrates the position. Mr. Wood and Mr. Holroyd (both of whom were afterwards raised to the bench) when crossing Finchley Common, on their way to join the Northern Circuit, were stopped by a gentleman of fashionable appearance, who rode up to the side of the carriage, and begged to know "what o'clock it was." Mr. Wood, with the greatest politeness, drew out a handsome gold repeater, and answered the question; upon which the stranger drawing a pistol, presented it to his breast and demanded the watch. Mr. Wood was compelled to resign it into his hands, and the highwayman, after wishing them a pleasant journey, touched his hat and rode away. The story became known at York, and Mr. Wood could not show his face in court without some or other of the bar

how do you manage then?" "Why, when the patient happens to die, we lay him out in a room over night by himself, lock the door, throw open the sash, and in the morning he is entirely off." "Indeed," said the gentleman, amazed, "and pray what becomes of him?" "Why, that we cannot exactly tell, not being acquainted with supernatural causes. All that we *know* of the matter is, that there is a strong smell of brimstone in the room the next morning!" Foote had an especial aversion to attorneys. One of this profession, certainly not remarkable for the integrity of his character, having a dispute with a bailiff, brought an action against him, which Foote recommended to be compromised. The parties agreed to do it, but differed as to who should be arbitrator, and at length requested Foote to act in that capacity. "Oh, no!" said Foote, "I might be partial to one or other of you, but I tell you what, I'll do better.—I'll recommend a thief, as a common friend to both."



reminding him of his misfortune, by the question, "What's o'clock, Wood?"

The expenses of admission to the bar, and of the professional education, without which admission is of little value, have of late years much increased. Mr. Warren declares that a clear income of *at least* (the italics are his own) 150*l.*, and that managed with the greatest economy, "is generally speaking a *sine quâ non* to a successful entrance into the profession." "In our opinion," says a reviewer in the *Law Magazine*, "if the candidate be not blessed with a commanding connexion, he should have enough to keep him for eight or ten years, so as to give him a fair chance, and something to fall back upon should he fail. It would be difficult to go circuit and sessions, buy books, and live comfortably for less than three times the income named by Mr. Warren." How strangely do these assertions sound to those who have been taught by precept and example that in "parts and poverty"\* lie the secret of success at the bar! Looking to the great men who have from time to time shed light and glory on their age, such assertions appear anything but reconcilable with fact. Lord Eldon was originally intended for the church. When at Oxford, he was fortunate enough to obtain the Chancellor's prize for the best English essay. Considering that henceforth his fortune was made, he was bold enough to persuade a beautiful and interesting girl to elope with him. They were married, and John Scott was regarded as a lost man. The difficulty in which he thus involved himself, compelled him to relinquish all idea of the church, to enter himself for the bar, and he—the son of a coal-whipper at Newcastle—died an earl of the English peerage, in possession of an enormous fortune, and after having for nearly twenty-five years presided over the High Court of Chancery! He says that, after he had kissed

\* There was much wisdom in the reply of Grosseteste, the celebrated Bishop of Lincoln, to his brother, a person in humble circumstances, who asked for some preferment from him:—"Brother, if your plough is broken, I'll pay for the mending of it; or if an ox is dead, I'll buy you another; but a ploughman I found you, and a ploughman I'll leave you."

Sir Henry Martin, Judge of the Prerogative and Admiralty Courts in the reign of James I., owed his rise to the narrow circumstances in which the death of his father left him. His father bequeathed him 40*l.* a-year; "and he used," Fuller tells us, "merrily to say that if his father had left him four-score, he should never have been a scholar, but lived on his lands: whereas, this being, though a large encouragement, a scant maintenance, he plied his book for a better livelihood."

hands on receiving the Great Seal, the King said to him, "Give my remembrances to Lady Eldon." He acknowledged his Majesty's condescension, but intimated his ignorance of Lady Eldon's claims to such a notice. "Yes, yes," the King replied, "I know how much I owe Lady Eldon. I know you would have made yourself a country curate, and that *she* has made you my Lord Chancellor." And the old King was right. But where Scott succeeded, how many would have failed? How many, when all the cares and anxieties attendant on imprudent marriages are pressing on them—

"Increasing debts, perplexing duns,  
And nothing for the younger sons—"

could apply themselves, with the assiduity which they ought, to the study of a difficult profession?

"You charge me eighty sequins," said an Italian noble to a sculptor, "for a bust that you made in ten days!" "You forget," replied the sculptor, "that I have been thirty years learning to make that bust in ten days."

There is an opinion current in the minds of the public, that the bar is a profession, in a pecuniary sense, highly profitable, and a few instances of immense fortunes which have been made in it have been pointed to as evidencing the justice of this opinion. Sir Samuel Romilly is said to have realized an income of upwards of 15,000*l.* a year, at the latter end of his life; and in our own days, enormous retaining fees have, on several occasions, been given to counsel. Sir Charles Wetherell is known to have received 7000 guineas for opposing the Municipal Corporations' Bill at the bar of the House of Lords; and it is generally understood that the late Lord Truro's retaining fee, in the case of the British Iron Company against Mr. Attwood, was not less than 3000 guineas. The fee indorsed on the brief was 1000 guineas.

We have not many materials for ascertaining the emoluments of our lawyers in early times. In the parish books of St. Margaret's, Westminster, the following entry may be found:—"Also, paid to Roger Fylpott, learned in the law, for his counsel given, 3*s.* 8*d.* with 4*d.* for his dinner." Sir Thomas More estimated his income at 400*l.*; but probably some portion of this was derived from his office of undersheriff. Bacon, when Attorney-General, made 6000*l.* a year; and tradition has said that Coke's gains, when filling the same office, were not inferior to those of a modern Attorney-General. Brownlow, a prothonotary in the time of Queen Elizabeth, made 6000*l.* a year. This gentleman used to close his year's accounts with "*Laus Deo*," and if his profits

were unusually large, with "Maxima Laus Deo." Bulstrode Whitelock possessed a private practice that brought him 2000*l.* a year. He stated, as a very uncommon circumstance to have happened to a pleader, that Serjeant Maynard, one of the most eminent lawyers of his day, realized, in one circuit, 700*l.* Lord-Keeper North, when Attorney-General, was in receipt of an income, including his gains from private practice, of 7000*l.* a year. Sir M. Hale said that 1000*l.* a year was a great deal for a common lawyer to make; and when he heard that one made 2000*l.* a year, he said, he knew the individual alluded to made a great deal by his city practice, but he doubted if he made so much.

The largest fee given by the bishops to the counsel who defended them, in their trial in the reign of James II., was 20*l.*; and the fees altogether amounted to no more than 240*l.* 16*s.*\* Of the lawyers of the time of the Commonwealth, an old writer says, "Nor are their fees of mean value, three pounds, five pounds, six pounds, being usual, even for making a motion of five or six lines." "Many of them," continues the indignant author, "rise from nothing to great estates, five thousand pounds, six thousand pounds, nay, ten thousand pounds, twelve thousand pounds, by the year, and purchase baronies and earldoms." The salaries of the law officers of James's time were as follows:—the Attorney-General, Sir Francis Bacon, received 81*l.* 6*s.* 8*d.*; Sir Henry Yelverton, Solicitor-General, 70*l.*; the King's Serjeant, 41*l.* 6*s.* 10*d.*; and Henry Martin, advocate for ecclesiastical causes, 20*l.*

In the times of the Stuarts it was customary, especially in the Court of Chancery, to retain, in either side, in every cause, whether involving points of great difficulty or not, a great number of counsel. Ten advocates on one side have been heard in Chancery to speak to a motion of course. There is an anecdote told of Lord Somers, when he was at the bar, illustrating this circumstance. In a motion which was understood to be of course, six or seven counsel had addressed the Chancellor, when Mr. Somers rose, and said that "he was of the same side; but that so much had been already said, that he had no room to add anything; that, therefore, he would not presume to take up his lordship's time, by repeating what had been so well urged by the gentlemen that went before him." "Sir," said Lord Chancellor Nottingham, "pray go on; I sit here to hear everybody; you never repeat, nor will you take up my time; and,

\* Echard, however, says that "the Bishops' counsel consisted of seven of the best lawyers that could be found, who, in this noble cause, *refused* all fees or reward."

therefore, I shall hear you with pleasure." This practice of retaining many counsel is generally discountenanced by the courts, as tending to increase the expense and protract the settlement of the suit. Consequences, still more injurious, have resulted from this practice. In the case of Mr. Shelley, which was argued in the Court of Chancery some years back, all the king's counsel were retained for Mr. Shelley. A cause was tried at Carlisle some time ago, the parties to which were, a former Earl of Lonsdale, and the three orphan children of his deceased steward. The peer managed to retain every counsel in the place, and succeeded in obtaining a verdict, by which these poor children, of which the poet Wordsworth was one, were deprived of an estate lawfully their own. Upon the decease of the oppressor, his son returned the property, so unjustly acquired, to the orphans, with interest, and the costs of the suit.

In every Crown cause in old days there usually were a legion of counsel engaged for the Crown. Some years ago a Jewish broker at Wapping was indicted for having in his possession certain pieces of metal, without the needful document to show that they were purchased at the king's sale. He made no defence, and the fact was clearly proved; yet not less than five counsel were retained against him, four having silk gowns, and receiving double fees.

The life of a counsel in full practice in the reign of Charles II. may be guessed from the account that Roger North has preserved of his brother while at the bar. "His lordship's great labour was to get time to be instructed well in causes of great consequence, as trials at the bar and hearings in Chancery; and for that work he took the fresh of the morning. He had a very trusty boy who never failed, winter and summer, to come into his chamber at four in the morning. He could over night just, and but just, admit his clients and their agents; and being informed by them in the history of the cause, and where the pinch was, he was then prepared, next day, to peruse his brieve, and the papers left with him; which was impossible to be done for one, whilst others waited without." Lord Eldon told the young Grants that, to succeed at the bar, it was necessary to live like a hermit, and work like a horse.

The progress of reform in our judicial system, while it has, to a certain extent, been productive of great advantages, has also been attended with some evils. From the diminution of sessions practice, in consequence of the new Poor Law Act, one opening which was formerly afforded to the young barrister of making himself known, acquiring experience and habits of self-possession which could avail him in Westminster Hall, has been considerably narrowed.

By the etiquette of the profession, serjeants, queen's counsel, and barristers with patents of precedence, do not attend sessions; thus an opportunity is afforded to those who elsewhere are called on to do nothing more than open the pleadings and examine the witnesses, of displaying their abilities in addressing a jury. The abolition of the Welsh jurisdictions has also been attended with some injury to the bar. After accepting the office of Attorney or Solicitor-General, no barrister can return to his circuit. These offices, then, afforded some compensation for the loss thus sustained. In themselves, however, they were terrible nuisances, expensive to the country, and productive of but little benefit or advantage to those for whom they were established.

Mr. Justice Hardinge, who held one of these appointments, once addressed the grand jury at Brecon in these words! "Where, gentlemen, is my calendar? It is not in my hand. It is a perfect blank. There is not one prisoner for trial." When he got to Cardiff, he said, "I cannot forbear to admire the eloquence of the gaoler and of his calendar. There I perceive three little words, not to be surpassed by Demosthenes himself—'None for trial.' May those brilliant words record and perpetuate the honour of this country *for ages to come!*" At Presteigne, he said, "I pass over the calendar with its pilfered watch, the single and petty offence brought before us, just as if no calendar had been put into my hands. We come to deliver, as it is called, an empty jail." A learned serjeant, who some years ago went that circuit, when asked whether there was much business, coolly replied, "Very little, I believe. We read of three or four murders in the calendar; but I understand the parties have met and have made it up: they are all compromised!"

In reference to the three principal professions, Dr. Parr used to say, that "physicians were the most learned, lawyers the most amusing, and then came the clergy." Lord Grenville said that he never met with a lawyer at a dinner party but he felt certain the conversation would take a rational and improving turn. Sir Walter Scott says in his *Diary*, that "a barrister of extended practice, if he has any talents at all, is the best companion in the world." The late Mr. Ward, in his admirable "*Illustrations of Human Life*," makes one of his favourite characters complain, that "he is never in the company of a lawyer but he fancies himself in a witness-box." This is hardly the case. Taking them as a body, lawyers see much of life, and are constantly brought in contact with the best society. Their pursuits give them a great insight into the springs of human action; indeed, human character is as much their

study as human laws. There have been, indeed, some instances of men having risen to great eminence at the bar, without acquiring any knowledge of the world, and who, when brought into society, have exhibited a most distressing ignorance of the rules by which it is governed. It has been said of Sir Anthony Hart, that when he was Lord-Chancellor of Ireland, in the absence of the Lord-Lieutenant he was appointed, according to custom, one of the Lords Justices, to exercise the functions of government until the viceroy returned. While filling this office, Sir Anthony happened one day to drive past the barracks, and the guard, of course, turned out to salute him. Never supposing that this form was an honour intended for himself, the worthy representative of royalty did not even acknowledge the salute. The officer in command feeling annoyed at the apparent slight, mentioned the circumstance. And at last the story of his mortification reached the ears of the Chancellor, who was most dreadfully shocked at his unfortunate mistake. Accordingly he desired his coachman on the following day to drive again past the barracks, and when the guard again saluted him, he acknowledged the compliment with a most *elaborate* bow. In a discussion on the Adultery Prevention Bill, in the House of Lords, in Lord Kenyon's time, the Earl of Carlisle, in alluding to the Chief Justice, observed, that, like his brethren, he was a legal monk, a cloistered gownsman.\* Lord Kenyon replied, in a tone of considerable irritation, "Somebody tells us that the judges are legal monks, knowing nothing of the world! What is the world? It is necessary to define terms, in order to know what the world is, and what is meant by this knowledge of the world. If it is to be got by lounging, like young men of fashion, about Bond-street, or at gaming tables, or at the course of Newmarket, or in private houses of great men, or in brothels, I disavow being acquainted with it; but, surely, something of what may be truly called a knowledge of the world, *quicquid amant homines*, may be contained in courts of justice."

His predecessor, Lord Mansfield, was an accomplished gentleman, and was as well acquainted with the usages of society, as with the principles of law.† In still later times,

\* It was said that Gifford displayed, during the queen's trial, so much ignorance of foreign manners, that some one present, at the time he was conducting the examination of one of the witnesses, said that he presumed the Attorney-General had never read a book of travels in his life.

† He one day called to see Bishop Trevor, with whom he was intimate—and while in a room, conversing with the bishop's secre-

we have seen the bench occupied by individuals whose manners have been as finished as their knowledge has been profound. Sir Robert Graham, who retired from the Exchequer Court in 1827 is a striking instance. Upon one occasion, when passing sentence on a batch of convicted criminals, he is said by accident to have pronounced sentence of transportation on one who it was intended should be hanged. Shocked beyond measure when apprized of this mistake, he desired the culprit to be again placed in the dock, and hastily putting on the black cap, he addressed him, "Prisoner at the bar, *I beg your pardon*," and then proceeded to pass on him the awful sentence of the law, as they say in the newspapers.

Perhaps a strong instance of the ignorance of the world which has characterised some of our eminent lawyers cannot be more amusingly illustrated than by transferring to these pages Mr. Hawkins' graphic description of the *débüt* in the Court of King's Bench of that illustrious scholar and profound jurist, Mr., afterwards Sir William, Jones. "The question before the court arose upon private disagreements in a family, which made a separation between a husband and wife necessary; and there being a child, whose interests were to be taken care of, the interference of the court was required. A perfect silence prevailed; the attention of all present being attracted to hear what 'Linguist Jones,' as he was even then called, would say. Though he could not have been accustomed to hear his own voice in a court of law, for, I believe, this was his forensic *débüt*, he nevertheless spoke with the utmost distinctness and clearness, not at all disconcerted by the novelty of his situation. His tone was highly declamatory, accompanied with what Pope has called 'balancing his hands;' and he seemed to consider himself as much a public orator as Cicero or Hortensius could have done. His oration, for such it must be called, lasted for nearly an hour. But the

tary, Dr. Addington, the physician, was brought in, in an arm-chair, by two porters, who were going to carry him upstairs. The secretary begged Lord Mansfield to go up first himself, and prepare the bishop, who he feared would be shocked by the sight of his friend and physician in such ill health. "By no means," quickly answered Lord Mansfield, "by no means; let the doctor go up: you know nothing of human nature; the bishop will be put into a good humour by seeing any one in a worse condition than himself." And so it proved, for when Lord Mansfield went up afterwards, Addington being then gone, the bishop said, "I fear the crows will soon have my excellent physician." The result was otherwise—the bishop died in a few weeks, while Addington survived many years.

orator, however he might wish to give a grand idea of the office of pleader, did not, in the course of his business, entirely avoid the ridiculous; for having occasion to mention a case decided by the court, he stated in the same high declamatory tone in which he had delivered the whole of his speech, that he found, 'that it had been argued by one *Mr. Baldwin*.' Not being very conversant with the state of the bar, he did not know that this *one Mr. Baldwin* was, at the time of which I am speaking, a barrister in great business, and was then sitting not a half-yard from the orator's elbow. It occasioned a smile, or perhaps more than a smile, on every countenance in court; but the orator proceeded steadily as before. In the course of his speech he had occasion to mention the governess of the child; and he did it in such terms as conveyed, and must have conveyed, to any one possessed of ordinary powers of comprehension, an idea that she was an extremely improper person to remain with a young lady: on the next day, therefore, Mr. Jones appeared again in the seat which he had occupied the preceding day, and, when the judges had taken their seats, he began in the same high declamatory tone to inform the court, that 'it was with *the deepest regret* he had learned that, in what he had the honour to state to their lordships the preceding day, he was understood to mention that Mrs. ——— was a harlot.' The gravity of every countenance in court yielded to the attack thus made upon it, and a general laugh was provoked by it."

Our early lawyers were not remarkable for their eloquence. Ascham speaks of some of them "as roaring like a bull; and," he adds, "they do best when they cry loudest." Sir Thomas Elyot, in his *Governor*, observes, in reference to the law, that inasmuch "as the tongue wherein it is spoken is barbarous, and the *stirring of the affections of the mind in this nature was never used*, therefore they lacked elocution and pronunciation, two of the principal parts of rhetoric; notwithstanding some lawyers, *if they be well retained*, will, in a mean cause, pronounce right vehemently." Profound learning, it would appear, afforded in those days the best title to success; and probably the most successful advocate never aspired to do more than obtain the approbation of the court and his brethren at the bar. There was not then a public, watching with intense interest the proceedings of the courts of law and justice, ready to reward with the meed of praise the redresser of the wronged, or the protector of the innocent. In examining the state trials, which afford the best records of forensic eloquence, it is amusing to trace in the tone, and the allusions of counsel, the taste, manners, and degree of enlighten-



ment of their times. From the earliest period of which any account of these is preserved, until the time of the Revolution, we find the speeches of the advocates for the most part marked with a spirit of bitterness and malice repugnant to the feelings of a more advanced stage of civilisation. They abound with false metaphors, quaint images, plated\* throughout with Latin and Scriptural quotations, and full of references to ancient history and mythology. There is, however, in many of these to be found a force and spirit often denied to more correct and elegant productions.

We proceed to give some account of such of our advocates as from their reputation deserve notice in this place.

Coke, the great luminary of English jurisprudence, was educated at Cambridge; and after having resided at Clifford's Inn for a year, entered himself at the Inner Temple, where he soon acquired such a knowledge of the law, as to excite the attention of the benchers, a circumstance to which he probably owed his early admission to the bar. In 1578 he appeared in the King's Bench for the first time in a very important case, and speedily obtained a considerable practice. His merits being duly appreciated by the sagacious statesmen that surrounded the throne of Elizabeth, he was soon secured for the service of the court. After having held the Speakership of the House of Commons, he was made Attorney-General; in which post he continued until he was raised to the bench. Of Coke, as an advocate, we know nothing, except his conduct in the state prosecutions of his time, and in these he appears in no very favourable light; rough, blustering, overbearing; to the court disrespectful, to the culprit insulting. "In your pleadings," Lord Bacon once wrote to him, "you were wont to insult over misery and to inveigh bitterly at the persons, which bred you many enemies." His conduct to the gallant and unfortunate Raleigh on his trial is well known. He addressed to him the most opprobrious epithets. "Thou art a monster:" he said, "thou hast an English face, and a Spanish heart. Thou viper, for I *thout* thee, thou viper." But we must not judge Coke

\* In allusion to the practice common in his day, of interlarding English with scraps of Latin, Sir Thomas Brown observes, that "if elegancie still proceedeth, and English pens maintain that stream we have of late observed to flow from many, we shall, within a few years, be fain to learn Latin *to understand English*."

† It has been supposed that Shakspeare alludes to this speech when he makes Sir Toby Belch say to Sir Andrew Aguecheek, "If thou *thou'st* him some thrice it shall not be amiss."

too harshly. Even in a later age, coarseness not less revolting was common, not only from the bar, but even from the bench. We do not allude to the diatribes of Scroggs or Jeffreys, whose violence disgraced humanity itself, but even to the gentle and moderate Sir Matthew Hale, who, addressing the prosecutor in a trial at which he presided, said, "Come, come, Larimer, thou art a *very villain*. Nay, I think thou art a *devil*."

Coke does not appear to have "borne himself meekly in his high office," but rather on the strength of his pre-eminence as Attorney-General, to have displayed his violence of temper towards his juniors.

Sir Thomas Egerton, afterwards Lord-Keeper and Lord-Chancellor, happened to be one day present at a trial of an action, in which a poor woman was defendant, and two rich graziers plaintiffs. It appeared that the graziers, with another, had deposited in the defendant's hands, some time before, a sum of money, upon the condition that she should return it whenever they should appear together to claim it. Sometime after this, early in the morning, one of the graziers came running to her and said that his partners were hard by in the market, that they were about to make a most advantageous bargain, but unfortunately found that they had not money enough, that they were coming to her when they had settled the matter, and that they had sent him to her to request her to send the money as quickly as possible. Suspecting no harm, she accepted his offer of carrying them the money himself, and gave it to him. The two other farmers brought this action to recover the whole deposit. An intimate friend of Egerton's was of counsel for the defendant, and anticipating his failure, said to Egerton, "Your cause (Egerton was engaged in the next cause) will come on directly—ours will be soon over—we shall lose it." "That cannot be;" replied Egerton. "How, cannot be?" said his friend. "It cannot be in strictness of law." "If it cannot be according to strictness of law, and you can devise any means of saving my client, I wish you would speak as *amicus curiæ*." Egerton on this got up, and having obtained permission, addressed the court. Taking care to establish, in the first instance, the conditions on which the money was entrusted to the woman, he contended that inasmuch as only *two* of the partners had brought this action, the verdict must go for the defendant. "It is to the three appearing together," he said, "that the defendant agreed to pay the money—where is the third? The three have never demanded the deposit, or she would have paid it to them." To this reasoning no answer could be given, and the result was in accordance with his expectations.

Sir Matthew Hale originally intended to have entered the army, but coming to town on some business connected with a lawsuit, he became known to Mr. (afterwards Serjeant) Glanville, who, struck by the singular clearness of apprehension which he manifested, persuaded him to turn his attention to the bar, which he did, and very speedily became eminent and respected by both the royalists and parliamentary parties. Although he had been counsel for Lord Strafford and Archbishop Laud,\* he was named by the parliament to assist as counsel the commissioners sent to the king at Oxford. He was also retained on behalf of Charles I., but in consequence of the king denying the jurisdiction of the court he was not heard. He defended, however, several of the royalists, and amongst the rest the Duke of Hamilton, and with such spirit as to induce the Attorney-General to threaten him for appearing against the government. Hale retorted, "That he was pleading in defence of those laws which they declared they would preserve and maintain; that he was doing his duty to his client, and that no threats should deter him from the discharge of that duty."

In pleading, Hale avoided "The mis-reciting of evidence, the making of false quotations, and such confident assertions as were calculated to mislead." He was not an orator. Styles, the reporter, frequently complains that he spoke so low "that he could not hear him well." "He was," said Richard Baxter, "but of slow speech, and sometimes so hesitating that a stranger would have thought him a man of low parts."

Francis North (afterwards Lord-Keeper Guilford) owed his success at the bar in a great measure to the friendship of Sir Jeffrey Palmer, the Attorney-General, who, when he grew old, would get North to take briefs in the King's Bench for him. North went the Norfolk circuit, where he became acquainted with a miserly old serjeant who monopolised all the business there, and from whom, as they rode along together, he learnt much; being careful to keep his discourse flowing, "for being mostly of law and *tricks*, and sometimes of purchases, and management, and the like, it

\* Herne, the archbishop's senior counsel, though a poor reasoner, was very quick and witty. When Serjeant Wilde, who was one of the managers for the Commons, observed, "That though no *one* crime of Laud's amounted to high treason, yet *all* his misdeameanours taken together by way of accumulation, made many grand treasons;" Herne quickly replied, "I crave your pardon, Mr. Serjeant: I never understood before, that two hundred couple of black rabbits would make a black horse."

was," says Roger North, "very beneficial to one who had his experience to gather."

The eloquence of the English bar belongs to a later period in history than that of which we have been speaking. From the time of Lord Cowper down to the days of Erskine, we can boast a series of forensic orators, who, in the highest attributes of eloquence, would vie with the most renowned speakers that have adorned our senate. It will also be found that, accomplished as these have been as orators, they have been also often profound, and always well-read lawyers: for it is an error to suppose that law-learning and eloquence are incompatible; and a far greater error to suppose that, in modern time, any "figures of speech" will compensate for an intimate acquaintance with the principles of the law, and the practice of the courts. Lord Erskine, in a letter which has been published, says, "That no man can be a great advocate who is no lawyer. The thing is impossible." When Lord Brougham heard a counsel addressing the court in a flowery strain, he sarcastically observed to some one near him, "Poor young man! he has read the wrong Phillips."

Some of our ablest lawyers have made sad failures when, in addressing a jury, they have attempted to interest the feelings, or to appeal to the sympathies. Those who, in the process of acquiring profound knowledge, have sequestered themselves from the world, and to whom its ways and opinions have become less familiar than the pages of the reports, or the statutes at large, find themselves at a disadvantage, when that knowledge is required at their hands which reading never has given and never can give; and that tact is demanded which unceasing conversance with men alone can confer. A learned serjeant in former times, who was originally bred an apothecary and accoucheur, determined to change his profession, and applied himself to the study of the law. In due time he acquired a respectable practice, and an extensive reputation as a lawyer, though his oratorical achievements were by no means remarkable. When Murphy, the dramatist, went the home circuit, he had the curiosity to take down a speech of this learned serjeant, which consisted of little else than repetitions of "*Gemmen* of the jury." This speech he afterwards showed to Lord Chief Baron Skinner, who, instead of laughing at it with the rest of the company, gravely observed, that "he thought the learned serjeant very ill-treated; for though it was true that *he had* often delivered other people, it was never *understood that he could deliver himself*."

It is, however, a great mistake to suppose that the most

successful advocate is he that is the most eloquent. The late Lord Abinger, who on all hands must be admitted to have been the first advocate of his time, had not the remotest pretensions to eloquence. His style was colloquial; he *talked* over the jury. He never *bullied* them, attempting, like his great antagonist, Mr. Brougham, to wring verdicts from them, and to force them, reluctant and terrified, to do his bidding.\* His bearing towards them was bland and respectful; he took care never to alarm them with the fury of rhetoric; he was fluent, and as Johnson said of Churchill, was a tree that only bore crabs, but bore a great many. Sir Albert Pell was another instance of a successful advocate who never "trod the primrose paths" of flowery speech. He was famous for violating every rule of grammar and pronunciation whenever he opened his mouth. Verbose and prolix, he yet succeeded in getting verdicts, and his secret may be learnt from this anecdote:—A gentleman, who happened to be in a room with him the day after he had been engaged in an important cause in the neighbourhood, made some slight allusion to the tautologous speech which the learned counsel had delivered. Pell immediately acknowledged the justice of the censure. "I certainly was confoundedly long," he said; "but did you observe the foreman, a heavy-looking fellow in a yellow waistcoat. No more than one idea could ever stay in his thick head at a time, and I resolved that mine should be that one; so I hammered on till I saw by his eyes that he had got it. Do you think I cared a d—n what you young critics might say?" Lord Brougham used to say of Pell's style of speaking, "that if it were not *eloquence*, it was *pelloquence*, and deserved to have a chapter in books of rhetoric to itself."

A bold, familiar, and forcible manner conveying to the minds of all present a belief that you are in earnest, is the most effective style for addressing a jury. An editor of a

\* The effective manner in which Lord Brougham, when at the bar, used to terrify juries out of their verdicts, was most remarkable: it often, however, failed of success. The most difficult of every species of advocacy, he was, perhaps, almost the only man of his day who could ever boast he had succeeded in it. It has been related of him, that once, at the Lent assizes at York, he sat for some time intently looking at a witness who was giving evidence, and whom he was to cross-examine. At last, the poor fellow, after several efforts to continue his replies, became so dreadfully alarmed, that he declared that "he could not say another word, unless that gentleman," pointing at Mr. Brougham, "would take his eyes off him."

newspaper brought an action against three gentlemen who had been attacked in his paper, and who had vindicated their character by inflicting on him the severest chastisement. Mr. Charles Phillips, who was of counsel for the defendant, made a splendid speech, depicting with great eloquence the cruelty with which his client had been treated, and managed very evidently to carry the jury along with him. Mr. (afterwards Justice) Taunton, who appeared for the defendant, quickly obliterated the impression that his brilliant opponent had made, by saying in a powerful, but familiar tone, "My friend's eloquent complaint in plain English amounts to this, that his client has received a good horse-whipping—and mine is as short—that he richly deserved it!"

It is, however, in the examination of witnesses that the talent of the *nisi prius* advocate, in modern times, is the best displayed. To force from an unwilling witness an important admission; to expose the inconsistencies of a plausible statement; in this does the advocate exhibit most effectively his powers. At a trial at Bristol, a hostile witness was called to prove a fact it was known he was able to do; but he evaded all questions for nearly an hour. The judge at length said that there was no use in carrying the examination any further. Mr. Pell, who was counsel, entreated permission to proceed; enough had been said by the witness to justify a suspicion that he could prove the desired fact. Taking as a basis the admission already made, Mr. Pell put two or three additional questions which the witness was compelled to answer, and which established the facts on which the cause depended. So great an impression did Mr. Pell make on this occasion, that on his success he was greeted with the cheers of the spectators in the court. Garrow, whose talents for examination were never excelled, was so confident in his powers of eliciting evidence from a witness, that he has been heard to say to one before examination, "You know a particular fact, and wish to conceal it—I put you on your guard—I'll get it out of you!" And this he never failed to do.

Counsel, however, have sometimes pushed their privilege of treating every hostile witness as a rogue rather too far, and have received some severe rebukes from those they had hoped to have made the objects either of scorn or ridicule. Jeffreys, the afterwards notorious Chief-Justice and Chancellor, was retained on a trial, in the course of which he had to cross-examine a sturdy countryman clad in the habiliments of the labourer. Finding the evidence of this witness telling against his client, Jeffreys determined to disconcert him. So he exclaimed in his own bluff manner,

"You fellow in the leathern doublet, what have you been paid for swearing?" The man looked steadily at him, and replied, "Truly, sir, if you have no more for lying than I have for swearing, you might wear a leathern doublet as well as I." One of the best retorts this ferocious tyrant ever received was from a lady. Jeffreys' wife had been confined a very short time after her marriage, which excited much ridicule when it became known. Her husband was, shortly after this unfortunate occurrence, examining a fair witness, who gave her evidence with tolerable sharpness. He said, "Madam, you are quick in your answers." "Quick as I am, Sir George, I am not so quick as your lady." Serjeant Cockle, who was a rough blustering fellow, once got from a witness more than he gave. In a trial of a right of fishery, he asked the witness, "Dost thou love fish?" "Ay," replied the witness with a grin, "but I donna like *cockle* sauce with it!" The roar of laughter which echoed through the court rather disturbed the learned serjeant. There is an anecdote something similar related of Serjeant Davy, a great lawyer of the last age. A gentleman once appeared in the Court of King's Bench to give bail in the sum of 3000*l*. Serjeant Davy, wanting to display his wit, said to him, sternly, "And pray, sir, how do you make out that you are worth 3000*l*?" The gentleman stated the particulars of his property up to 2940*l*. "That's all very good," said the serjeant, "but you want 60*l*. more to be worth 3000*l*." "For that sum," replied the gentleman, in no ways disconcerted, "I have a note of hand of one Mr. Serjeant Davy, and I hope he will have the honesty soon to settle it." The laughter that this reply excited extended even to the bench; the serjeant looked abashed, and Lord Mansfield observed, in his usual urbane tone, "Well, brother Davy, I *think* we may accept the bail." Dr. Brodum, a notorious quack, was once under examination by Mr. Abraham Moore. "Your name is Brodum, I believe," inquired the counsel. The doctor nodded assent. "Pray how do you spell it—Bro-dum or Broad-hum?" On this there was a loud laugh in court, which was not diminished when the quack replied with admirable self-possession, "Why, sare, as I be but a doctor, I spell my name Bro-dum; but if I were a *bar-rister* I should spell it Broad-hum!" Mr. Bearcroft, who was well known as an eminent advocate of the last age, was quite disconcerted by an old woman that he was examining calling him "Mr. Beer-craft." A messenger for the press, as that officer was formerly denominated, whose business it was to obtain information respecting seditious publications, was once giving evidence before th-

Court of King's Bench against a bookseller. Mr. Hungerford, a famous advocate of the time, but more esteemed for his wit and love of quibbling than for his law-learning, who was examining him, made some reflections on the meanness of the messenger's duties. The messenger replied with some quickness, "I consider the place of messenger to the press to be quite as reputable as that of merry-andrew to the bar." Dunning, while examining a witness, asked him if he did not live at the very verge of the court. "Yes, I do," was the reply. "And pray why have you selected such a spot for your residence?" "In the vain hope of escaping the rascally impertinence of *Dunning*," was the retort. A witness with a *Bardolphian* nose coming in Dunning's way, he said to him, "Now, Mr. Coppernose, you have been sworn, what do you say?" "Why, upon my oath," replied the witness, "I would not exchange my copper nose for your brazen face!"

Murray, Lord Mansfield, was extremely admired, while at the bar, as a graceful and fluent speaker. When Mr. Dunning was looking at the portraits hanging up in Sir Joshua Reynolds's gallery, coming to one of Lord Mansfield, he stopped, and addressing the artist, said, "I can well remember when I used to attend the court of law, as a student, for instruction; and always made a point of going whenever I understood Murray was to speak. This was as great a treat to me, Sir Joshua, as a sight of the finest painting by Titian or Raffaele would be to you! Sometimes when we were leaving the court, we would hear the cry, 'Murray is up,' and forthwith we rushed back, as if to a play or other entertainment." Having received his education in England, Murray always considered himself as an Englishman. His Scotch origin was once, however, thrown in his teeth, and not without effect. General Sabine, Governor of Gibraltar, endeavoured to extort a sum of money from a Barbary Jew who lived in that place, but his efforts were unavailing. To punish the Jew for his contumacy, Sabine had him seized, put on board a vessel, and sent to Tetuan, with a letter to the bashaw, informing him he would receive therewith a pigeon to pluck. The bashaw, struck with compassion at the Jew's ill-usage, liberated him, and gave up Sabine's letter, with which the Jew came to England, where he brought an action against the governor. When the action was tried, Murray, who was counsel for Sabine, affected to treat the matter very lightly. "Great stress had been laid," he said, "on the cruelty of the proceeding. The Jew, it had been said, was banished. True, he was banished; but to where? Why, to the place of his nativity! Where is the cruelty, where the hard-



ship, where the injustice, of banishing a man to his own country?" Mr. Nowell, who appeared for the Jew, said, "Since my learned friend thinks so lightly of this matter, I would just ask him to suppose the case his own. Would *he* like to be banished to *his* native land?"\* The court rang with peals of laughter, in which Murray himself most heartily joined. His style of speaking was rather elegant and persuasive than forcible. After he had addressed the House of Commons upon some important occasion, (probably in opposition to the bill introduced in consequence of the Porteous' riots at Edinburgh,) Sir Robert Walpole observed, that the speech he heard resembled an oration of Cicero. Mr. Pulteney observed that he could fancy that Cicero not only composed, but delivered it.

Dunning is one of the most remarkable instances on record of the triumph of genius over physical defects. He laboured, first, under the disadvantage of a singularly unprepossessing exterior; he was the ugliest man† of his day, without being in any way what could be called deformed. His figure was short and stumpy, his complexion sallow, his face adorned with a snub nose, giving a remarkably plebeian expression to his countenance, his whole frame infirm and weak. He laboured also under an affection of the nerves, which occasioned his head to be in a state of perpetual oscillation, his voice was most repulsive, his throat always half filled with phlegm, as though he were labouring under a chronic catarrh; and when a member of parliament, he would give loud intimations of his intention to address the house, by violent and incessant efforts to clear his throat. All his efforts were unavailing to render his voice otherwise than husky and unpleasant; yet in spite of all these drawbacks, he was the first orator of his day. The greatest defect in his style of speaking was, that at times it was too subtle and refined; but still it

\* Dr. Johnson would never allow that Scotland derived any credit from Lord Mansfield, as he was educated in England: "Much may be done with a Scotchman," he added, "if he be *caught young*!"

† So little was Dunning conscious of his own defects, that he was extremely fond of viewing his person in a mirror. One evening a client called upon Dunning at his chambers: he was not there, and his clerk directed the client to a coffee-house, where he said the learned advocate generally spent his evenings. When the client reached the coffee-house, he inquired for Mr. Dunning; the waiter declared that he did not know such a person. "Then go upstairs and see if there is a gentleman there with a face like the knave of clubs, and if so, tell him he is wanted." The waiter went up, and immediately discovered Dunning.

was bold and convincing. He was remarkable for his extraordinary fluency, and so rapid was his utterance, that he was the terror of the reporters. Still he never violated the rules of grammar; and although his style of speaking was extremely involved, it was remarkably finished and correct, yet bearing every mark of being unpremeditated. As a *nisi prius* advocate, he was unequalled for promptitude and nerve. The first time, however, he spoke at the bar of the House of Commons, so entirely had his self-possession deserted him, that he was going hastily to retire, believing his brief to be nothing more than a roll of white paper he had taken up by mistake.

There was one feature in his character which deserves especially to be commemorated—his manly bearing towards the bench—always respectful, never sycophantic—disdaining the mean arts by which some of the advocates of his day sought to win the favour of the court as a sure passport to business. Lord Mansfield, who prided himself in his power of discovering very early in a case its true bearings, was in the frequent habit of taking up a book or a newspaper before counsel had concluded their argument, and this he was particularly fond of doing whenever Dunning addressed the court. Upon one occasion when he did so, Dunning paused—Lord Mansfield, without raising his eyes, said, “Pray go on, Mr. Dunning—pray go on.” Dunning replied, with a sarcastic air, “I wait your lordship’s pleasure. I fear I shall disturb your lordship’s *more important occupation*; I will wait till your lordship has leisure to attend to my client and his humble advocate.” No one was more strenuous in supporting the etiquette of the profession than he. It is customary when a counsel is retained, that a brief in the cause should be sent him. This practice was once departed from in the case of Dunning, who, with his usual spirit, accepted a brief on the other side. Not only was he one of the most eloquent advocates, he was also one of the most profound lawyers of his day. Mr. Nicholls once asked Mr. Serjeant Hill, whether Dunning was equally learned with Mr. Serjeant Glynn—reputed the best-read lawyer in Westminster Hall; Mr. Serjeant Hill replied, “No; everything which Dunning knows, he knows accurately, but Glynn knows a great deal more.” Lord Mansfield used to say of him, that he was too minute and refined in his arguments, and that Wallace’s straightforward good sense without show, often gave him the advantage over Dunning. “Sir Fletcher Norton’s art,” observed the same great authority, “was very likely to mislead a judge and jury; and with him I found it more difficult to prevent injustice being done, than with any person who ever practised before me.” In examining a witness, Dunning sometimes

displayed great coarseness, and drew on himself the animadversion of his brethren. The following account has been given of his examination of an old woman, by whom he wished to prove the identity of a certain party:—

*Dun.* Was he a tall man?

*Wit.* Not very tall, your honour—much about the size of your worship's honour.

*Dun.* Was he good-looking?

*Wit.* Quite contrary—much like your honour; but with a handsomer nose!

*Dun.* Did he squint?

*Wit.* A little, your worship; but not so much as your honour by a good deal!

These replies produced a roar of laughter in the court, in which Lord Mansfield joined. Conversing once with "honest Jack Lee," Dunning told him that he had just bought some good manors in Devonshire. "I wish, then," replied Jack, "you would bring some of your *good manners* into Westminster Hall with you; for, by Jove, you often deserve to be kicked for your impudence." Mr. James Smith tells a similar story of Sir Fletcher Norton. In addressing the court on some question of manorial rights, he happened to say, "My lord, I can instance the point in my own person. Now, my lord, I have myself *two little manors*." Here Lord Mansfield interrupted with one of his blindest smiles, "We are well aware of that, Sir Fletcher."

Wedderburne, Lord Loughborough, was undoubtedly one of the most remarkable men of his day. So versatile were his talents, that at St. James's he was reputed a refined courtier; in the Court of Chancery an accomplished lawyer; in the House of Lords a ready debater and eloquent orator. He originally studied for the Scotch bar, and began to practise as an advocate. His progress, however, was stopped by the following occurrence. On one occasion, in replying to a very powerful speech of Mr. Lockhart, at that time a leader at the Scottish bar, he drew a very ludicrous picture of his opponent's eloquence, and summed up by saying, "Nay, my lords, if tears could have moved your lordships, tears, I am sure, would not have been wanting." The lord president immediately interrupted him, and said that such observations did not befit the dignity of the court. Wedderburne, unabashed at the reproof, declared that he had said nothing he was not entitled to say, and that he should not shrink from saying again. To this the president rejoined to such effect as to extort from the young advocate the observation, that his lordship had said that as a judge which he durst not maintain as a man. The president immediately appealed to the court for pro-

tection, and Wedderburne was desired to make a most humiliating apology upon pain of deprivation. This he resolutely refused to do, and tearing his gown from his shoulders, declared he would never again enter a court as an advocate, where freedom of speech was forbidden him. He came to London, and commenced studying for the English bar. Upon his arrival he was fond of associating with the wits. Foote, it seems, took a dislike to him. "What can he mean by coming among us?" said the great wit; "he is not only dull himself, but the cause of dulness in others." He speedily acquired an excellent practice; so much so, that his income in a few years exceeded that of Thurlow, who was reputed the leader of his court. In 1771 he was appointed Solicitor-General, and it was in this capacity he had to appear before the Privy Council to oppose a petition from the House of Assembly of Massachusetts Bay, advocated by Franklin, and who was so severely attacked by Wedderburne that he never forgot or forgave it.

At the time of the riots in 1780, the Privy Council were convoked to advise on the measures necessary for quelling them. Doubts at that time were entertained by lawyers, whether troops could legally fire on the people without the Riot Act having in the first instance been read. Lord Mansfield shrunk from committing himself by giving a decided opinion on the question. Wedderburne, then Attorney-General, was called in, and stated in precise terms that it was perfectly legal for the military to disperse a riotous assembly by force, without reading the Riot Act. "Is that your declaration of the law, as Attorney-General?" asked the King. "It is," replied Wedderburne. "Then draw up an order to that effect." Wedderburne immediately drew up the order, the King signed it, and Lord Amherst put down the riots the same evening. Shortly after this, Wedderburne was raised to the Chief Justiceship of the Common Pleas, and created a peer. Like Dunning, Wedderburne was extremely vain of his person; and, like Dunning, was vain of a person which he was alone in admiring. Boswell once mentioned to Dr. Johnson, that both Wedderburne and a Mr. Cator, a friend of his, were very fond of looking at themselves in the glass. "They do not surprise me at all by doing so," said the doctor; "they see reflected in that glass men who have risen from almost the lowest\* situations in life; one to enormous riches, the other to everything that this world can give—rank, fame, and

\* This is not true of Wedderburne, who was of an ancient family, was well connected and educated, and had always lived in the best society in both London and Edinburgh.

fortune. They see, likewise, men who have merited their advancement by the exertion and improvement of those talents which God hath given them; and I see not why they should avoid the mirror." Johnson, however, was no admirer of Wedderburne. "Trying him," says Boswell, "by the test of his colloquial powers, Johnson had found him very defective. He once said to Sir Joshua Reynolds, 'This man has now been ten years about, and has made nothing of it,' meaning as a companion. He said to me 'I never heard anything from him in company that was at all striking; and depend upon it, sir, it is when you come close to a man in conversation, that you discover what his real abilities are: to make a speech in a public assembly is a knack. Now I honour Thurlow, sir; Thurlow is a fine fellow, he fairly puts his mind to yours.'"

Amongst the most celebrated advocates of his day was Law, afterwards Lord Ellenborough, and Chief Justice of the King's Bench. An insurance case, in which he was engaged, is said to have been the first thing that brought him into notice. Having, upon that occasion, manifested an intimate and profound knowledge of mercantile law, and having succeeded in obtaining a verdict for his clients, he was afterwards usually retained by the great trading and commercial bodies of London, in all legal proceedings to which they became parties. Law had also the good fortune to obtain a brief in a cause still more important, and which proved the stepping-stone to the highest honours of his profession. It is well known that when Warren Hastings was impeached by the House of Commons, the task of defending the ex-governor was proffered to Erskine, who declined it from an apprehension that it would involve him with his party, and especially with Fox, to whom he was deeply attached, politically and personally. Sir Thomas Rumbold, who had married Law's sister, upon this introduced Law to Hastings, and the young lawyer was ultimately intrusted with the conduct of the defence. He more than justified the expectation of his friends. His cautious and calculating spirit—his self-possession—his strong nerves, which all the eloquence, and prejudice, and reputation, against which he had to struggle, never overcame—admirably qualified him to cope with the vehemence of Burke, the rich fancy of Fox, the pointed wit and sarcasm of Sheridan; whilst, on the score of legal knowledge, Law had nothing to fear, although enlisted against him were the abilities of Lawrence, Pigot, and Mansfield. In discharging the duties thus imposed upon him, Law succeeded in establishing a great constitutional principle, against which, Burke, speaking as the representative of the Commons of England, had protested: he suc-

ceeded in proving that sitting as a court of justice, the Lords were bound to adhere to the law—to respect the rules of evidence established by law—and to give the accused the benefit of every technical objection that would avail him in Westminster Hall! “The Commons of England,” exclaimed Burke, “were not clerks, but laymen, and as such, pursued the ends of justice without the niceties of special pleading.” He desired also, that the evidence upon each article might be taken separately—a monstrous proposition, which Law successfully combated. “It was,” says one of his biographers, “most important for the interest of the defendant that the whole evidence in support of all the charges should be heard before he entered on his justification.” With Burke and Sheridan, Law came frequently into collision. Having complained of the delay on the part of Burke and his assistants, Law observed “that the right honourable manager always went in a circle, and never in a right line. They owed it to their common character to prevent unnecessary delay.” “Common character!” exclaimed Burke, in a tone of hauteur,—“I can never suffer the dignity of the House of Commons to be implicated in the common character of the bar! Let the learned counsel take care of *his* character—we know the dignity of our station!” When Law called upon the manager to retract an assertion he had made, and which the evidence had proved to be false, Burke replied, in a proud tone, “My Lords, the counsel deserves no answer!” Sheridan stated that the treasure in the zenana of the Begum was “an offering laid by the hand of piety upon the altar of the saint.” Law inquired, in a sarcastic tone, “how the Begum could be considered a saint, and how the camels—the better part of her treasures—were to be laid on an altar?” Sheridan, upon this, declared, “that it was the first time in his life that he ever heard of special pleading on a metaphor or a bill of indictment against a trope; but such was the turn of the honourable gentleman’s mind, that whenever he tried to be humorous, no jest was apparent, and when serious, no fact could be found.”\* Law’s speech for the defence,

\* Law, some years after this, had an opportunity, which he did not fail to seize, of repaying the sarcasm and ridicule he had to endure at Sheridan’s hands. That versatile politician was examined by him as a witness upon the trial of Lord Thanet, Mr. Cutlar Fergusson, and others, for a conspiracy and riot at Maidstone, in 1798. Law took ample revenge for past wrongs. Of this examination, Sheridan used to give a poetical version; and reported that when Law captiously observed, “do pray answer my question without point or epigram,” he replied, “you say true; your questions *are* without point or epigram.”

which occupied the whole of three days, was a masterly dissection of the evidence which had been produced against his client, and contrasted remarkably, in its strict coherency—disdain of mere ornament—and display of legal knowledge, with the brilliant declamation of his eloquent antagonists. Without doubt, his success upon this occasion was the means of advancing his reputation greatly in public estimation, and brought a large accession to his rapidly-increasing business. He had the advantage of Erskine, with whom he divided the business of the common law courts, in consequence of his profound legal attainments. And even in questions which demand rather the tact and address of the advocate than the learning of the lawyer, Erskine sometimes found his rival formidable. In a trial at Manchester, an objection having been made to the admission of some evidence, Erskine exclaimed, "Good G—! where am I?" "In a British court of justice," coolly replied Law. "How is my client to be exculpated?" "By legal evidence." "I stand, I stand," vociferated Erskine, "before the people of England, for justice." "And I," spiritedly replied Law, "am equally before the people of England, for the protection of the people of England; if you rise in this tone, I can speak as loudly and as emphatically." But the two leaders mutually admired one another, and when the fierce contest was over, were ready to pay willing tribute to each other's merits. Law was selected out of the whole bar by Lord Kenyon as an object for his continual censure. Towards the rising lawyer the Chief Justice was not ashamed to display every species of indignity that he possibly could, often violating the common decencies of civilized life. Once, when he moved unsuccessfully for a new trial, he received from Kenyon the sarcastic observation, "Well, sir, you have aired your brief once more."

Richard Pepper Arden is said to have owed his success in life in a great measure to his youthful acquaintance with Mr. Pitt. They became acquainted through the accidental circumstance of their holding chambers on the same staircase in Stone Buildings, Lincoln's-Inn. Arden was not amongst those happy few whose appearance in court was immediately followed by an overflow of business; but his family connexions, which were both wealthy and numerous, while they gradually increased his practice, rendered its increase not a matter of actual necessity. He was, when young, made a Welsh judge. To his conduct, in this capacity, a severe allusion was once made by Lord Thurlow, to whom Arden was personally obnoxious. On one occasion he was arguing in court a case, in the course of which the

age of a certain woman, mentioned in the affidavit, came in question. In the affidavit she was stated as being forty-five years old, but Arden believed her to be considerably older. Finding that his reasoning did not convince Mr. (afterwards Baron) Graham, the counsel on the other side, Arden exclaimed, in his vivacious manner, "I'll lay you a bottle of wine—" Lord Thurlow's offended look reminded him of what he had said. "I beg your pardon, my lord, I really forgot where I was." "You thought you were *in your own court*, I suppose, Mr. Arden," growled the indignant Chancellor. At this time it was customary for barristers to "ride the circuit." The roads were not what MacAdam has made them since, and posting was therefore comparatively rare. Arden used to tell a story of an adventure he had in purchasing a horse for this purpose. "Some years ago an action was brought against a gentleman of the bar respecting a horse he had bought for the circuit. The horse was taken home, and he mounted him to show his paces; the animal would not stir a step; he tried to turn him round, but he was determined not to go the circuit. The horse-dealer was informed of the animal's obstinacy, and was asked how he ventured to sell him such a horse. 'Well,' said the dealer, 'it can't be helped; give me back the horse; give me 5*l.*, and settle the matter.' The barrister refused, and advised him to send the animal to be broken by a rough-rider. 'Rough-rider,' said the dealer, 'he has had rough-riders enough already.' 'How came you to sell me a horse that would not go?' rejoined the lawyer. 'I sold you one warranted sound, and sound he is,' concluded the dealer, 'but as to his going, I never thought he would go, and I never said he would.'"

By Pitt's interest Arden was created successively Solicitor and Attorney-General, in connexion with which two offices he held the Chief-Justiceship of Chester. An absurd incident occurred while he was Attorney-General, of which an account has been recorded by Mr. Reynolds:—"To refuse or grant a patent for a new invention is peculiarly within the province of the Attorney-General, who does not usually exercise a very strict surveillance. A French count having discovered the means of creating an impelling power, by the aid of an artificial wind, counteracting the effects of the natural wind, Baron Pilnitz thought that this balloon would be seen sailing like a ship, and applied for a patent. The Attorney-General, naturally surprised at this extraordinary application, desired an interview, and my father being out of town, I was compelled to conduct the count to Mr. Arden's chambers, in Portugal-street, when the following curious conversation ensued—"Pray, what does this absurd



application mean?' 'Mean, sir,' I repeated with some surprise, 'it means that by artificial wind, counteracting the effects of the natural wind, we can direct balloons.' 'And what then?' 'What then, sir?' 'Ay, what then?' 'Why, sir,' I replied with great consequence and volubility, 'we shall not only raise botany to the highest pitch of perfection, by transplanting fresh roots and plants from one country to another; we shall not only raise the sieges of garrisons by introducing armed men and provisions, at our pleasure, but we shall discover the North-West passage.' 'Ay,' interrupted the Attorney-General, scarcely able to suppress his laughter, 'and in your mighty wisdom not only defraud the customs and excise, but annihilate the revenue arising from the post-office. Pooh! nonsense! artificial wind (laughing heartily) stuff, who is to supply the wind? Your client there?' The baron seeing the Attorney-General, as he conceived, delighted, smiling said, 'L'Advocat-Général, que dit-il, Mons. Frederic?' I replied in bad French, made worse by confusion, 'Il demande, baron, si vous êtes le personne qui fait le vent flatulent.' 'Diable!' exclaimed the baron. The Attorney-General then rose, bowed, and coolly desired me to tell my father that the baron's was less a case for a lawyer than a physician."

As an advocate, John Scott, better known as Lord Eldon, failed to acquire any considerable fame. As his practice lay chiefly in Chancery, he had not much opportunity for displaying anything like forensic oratory; but he had the opportunity, which he seized, of manifesting that tact and discretion, which as much, if not much more than eloquence, go to the composition of an accomplished advocate. His manner of addressing the rough old Chancellor, Thurlow, was deferential and respectful. He would rise with an air of feigned embarrassment, and wait until a surly nod would tell him that the Chancellor was ready to hear him. Artfully directing his observations as much to the judge as to the cause, he generally managed to obtain the Chancellor's attention; and by never pushing his argument when he found it displeasing to Thurlow, conciliated his regard. Scott, however, distinguished himself as a lawyer rather than as an advocate. The ready wit, the rapid elocution, the intimate knowledge of the world, which is essential to success in the *nisi prius* advocate, Scott did not possess. When leader of the Northern Circuit, he was asked by a young barrister, about to travel that circuit, what books it was advisable he should bring with him, he replied, 'The best you can take is 'Joe Miller.''" Horne Tooke declared that if he were to be tried again, he would plead guilty, rather than hear Scott's long speeches, one of which lasted

*nine hours.* When Attorney-General, he is admitted to have behaved with much lenity in state prosecutions. After the trial of Thomas Hardy for high treason, the following circumstance occurred—we give it in his own words. “After a trial of many days, the jury retired to deliberate; upon their return their names were called over. I shall never forget that awful moment. ‘Gentlemen of the jury,’ said the clerk of arraigns, ‘are you agreed in your verdict? what say you—is Thomas Hardy guilty of high treason, of which he stands indicted, or is he not guilty?’ ‘Not guilty,’ in an audible tone, was the answer. It was received in court silently, and without noise—all was still—but the shout of the people was heard down the whole street. The door of the jury-box was opened for the jurymen to retire; the crowd separated for them as the saviours of their country. I was preparing to retire, when Mr. Garrow said, ‘Do not, Mr. Attorney, pass that tall man at the end of the table.’ ‘And why not?’ said Mr. Law, who stood next. ‘He has been here,’ answered Mr. Garrow, ‘during the whole trial, with his eyes constantly fixed on the Attorney-General.’ ‘I will pass him,’ said Mr. Law. ‘And so will I,’ was my rejoinder. As we passed, the man drew back. When I entered my carriage, the mob rushed forward, crying, ‘That’s he, drag him out.’ Mr. Erskine, from whose carriage the mob had taken off the horses to draw him home in triumph, stopped the people, saying, ‘I will not go without the Attorney-General.’ I instantly addressed them: ‘So you imagine that if you kill me, you will be without an Attorney-General? Before ten o’clock to-morrow there will be a new Attorney, by no means so favourably disposed to you as I am.’ I heard a friend in the crowd exclaim, ‘Let him alone, let him alone!’ They separated, and I proceeded. When I reached my house, in Gower-street, I saw close to my door the tall man who stood near me in court. I had no alternative. I instantly went up to him. ‘What do you want?’ I said. ‘Do not be alarmed,’ he answered, ‘I have attended in court during the whole of the trials. I know my own strength, and am resolved to stand by you. You once did an act of great kindness to my father. Thank God, you are safe at home; may He bless and protect you!’ He instantly disappeared.”

At the trial of Horne Fooke, Scott, who prosecuted as Attorney-General, declared, in undertaking the prosecution, he had been guided by the dictates of his conscience, and expressed his hope that, after he was gone, his children might feel that in leaving them an example of public probity, he had left them an inheritance far more precious than any acquisition of property or honour he might be-

queath them. In repeating these words, Sir John Scott shed tears, and, to the surprise of the court, Mitford, the Solicitor-General, wept also. "What on earth," said some one to Horne Tooke, "can *Mitford* be crying for?" "At the thought of the little inheritance that poor Scott is likely to leave his children!" was Tooke's reply.

As an advocate, Scott was immeasurably inferior to Mr. Serjeant Cockle, whose powers of persuasion were so great, that he obtained the appellation of "the almighty of the north."\* A person who had a cause about to be tried at one of the assize towns on the northern circuit, attended a consultation of his counsel; but, in spite of the favourable view they took of his case, he seemed by his dolorous visage to apprehend a failure. At length he exclaimed, "I am much obliged to you, gentlemen—I am much obliged to you—but it won't do—it can't do—the *almighty* is against me!" "Are you mad, man?" exclaimed the leader, amazed at the extraordinary speech. "What has the Almighty to do with your case?" "I don't mean Almighty God, sir," replied the client. "I mean Serjeant Cockle—he's o' t'other side." An action was brought by a builder at Battle, to recover the amount of his bill for building a house. A surveyor was examined to prove that the work had been properly executed; and, according to the custom of his craft, he delivered his evidence in a tone of pompous conceit. Cockle, in examining him, treated him with an air of mock respect, which made him believe that the serjeant admitted his pretensions, and estimated him at the value he set upon himself. Cockle begged him to produce the original of the estimate he had made of the work charged. It was accord-

\* Serjeant Cockle's convivial powers were most remarkable. He was once retained in a very important case to be tried at York, and attended a consultation the night previously to determine on the line of defence. To the consternation of his client, the Serjeant entered the room in a state of intoxication, and plainly showed that he was in no condition to attend to any business. He assured the attorney, however, that "all would be right in the morning," an assurance which did not give him much comfort. Cockle then tied a wet napkin round his head, and desired his junior, Mr. Maude, to inform him of the principal points in the case. After this, he went to sleep for a few hours, and presented himself in the court next morning as fresh and ready as if he had passed the night in a very different manner. He cross-examined the witnesses with his usual tact and judgment, and his address to the court was as spirited and as forcible as any he had ever delivered. Not only did he succeed in obtaining a verdict for his client, but is said to have distinguished himself in a greater degree than he had ever done before.

ingly handed him. It stated the names of the plaintiff and defendant, the various items of the charge, and concluded, "I value at the sum of 350*l.* the above work done at Battle, in the county of Sussex." When the serjeant addressed the jury, he did so in the following words: "Gentlemen, a surveyor is an anomalous kind of animal; he can neither think, nor speak, nor write like a common person. His perfect conviction of his own importance is shown in every word he utters, and in every sentence he writes, even to the making out of a carpenter's bill. This puppet surveyor is not content with giving his estimate in plain language, and signed with his name; he must assume the style of an ambassador, and subscribe as an envoy would a treaty of peace. Look at the estimate and bill; he sets out the particulars of the charge, which he pronounces to be of the value of 350*l.* for carpenter's work—that is plain English; but how does he conclude? In the dignified language of diplomacy; 'Done at Battle, in the county of Sussex;' signed as our ambassador at Paris would conclude a treaty of peace for Great Britain." In examining witnesses, Cockle never browbeat or intimidated, he always put them in good humour with themselves, and then drew from them admissions fatal to his opponents.

Mr. Serjeant Bond resembled him in many particulars. They were both frequently pitted against Serjeant Leblanc, over whom, with his formal starched manner, which always raised a doubt of sincerity, they both had, at least at *nisi prius*, a very decided advantage. Bond, who was born in Surrey, had a very large practice at the sessions there, and was fond of making allusions to "my native county," which never failed with Surrey juries. He succeeded in establishing in that county a reputation equal to that which Cockle possessed in the North: and many a jury has been known to give as its verdict, "We find for Serjeant Bond, and costs!"

Greater than these, as an advocate, was the famous Erskine. His nerve and courage were unequalled; and no consideration would ever induce him to forbear from trying any point which he considered would benefit his client. His style of speaking was declamatory, but not diffuse—his vivid imagination supplied him with forcible images, which, clothed in language of transparent beauty, never failed to carry the jury along with him.

He would often take laudanum to assist him in speaking. It strengthened his fancy, and enabled him to make those brilliant appeals to the jury, in which his great powers were best discovered. Much of his eloquence he owed to his high animal spirits; without which let no one hope to be a

great orator. His carefulness in getting up his cases was remarkable, although he was fond of pretending that he did everything in obedience to the mere impulses of the moment. He was not only great on great occasions ; in cases of inferior importance, where dazzling eloquence would have been out of place, he was judicious and effective. He had all the timid susceptibilities of genius. When speaking, he would look round to the bar for encouragement. Once, looking at Garrow, and not perceiving any sign of approbation on his countenance, Erskine whispered to him, "Who do you think can get on with that d—d wet blanket-face of yours before him?" In addressing a jury, he observed a barrister sitting near him, whose mouth nature in her wisdom had been pleased to contort. "If that fellow is not removed," he said in a low tone to some one near him, "I shall certainly sit down." He examined witnesses with great discretion, and succeeded very happily in turning such as displayed great self-conceit into deserved ridicule. Cross-examining a person who travelled for a great London house, Erskine asked him "if he were not a *rider*?" "I am a *traveller*, sir," replied the witness, with an air of offended importance. "Indeed, sir ; and pray are you not addicted to the failing usually imputed to travellers?" Erskine was on one occasion counsel for the defendant in an action brought to recover the value of a quantity of whalebone, the defence to which was, that the whalebone was of inferior quality to what it was asserted. The witness by whom Erskine hoped to establish his case was so stupid that he appeared not to know the difference between *thick* whalebone and *long* whalebone. At length, driven to desperation, Erskine exclaimed, "Why, man, you seem not to know the difference between what is thick and what is long. Now I'll tell you the difference. You are a thick-headed fellow, but you are not a long-headed fellow." He was once retained for a Mr. Bolt, whose character was impugned by Mingay, who was counsel on the other side. "Gentlemen," said Erskine, in reply, "the plaintiff's counsel has taken very unwarrantable liberties with my client's good name, representing him as litigious and unjust ; so far, however, from this being his character, he goes by the name of *Bolt Upright*!" From Mr. Espinasse is borrowed the following anecdote:—A Mr. Ripplingham, an old attorney from the east end of town, was a client of mine and Erskine's. He was a worthy old-fashioned man, particularly attached to the style of dress of his younger days, and retaining it unaltered, despite the changes of fashion. His whole dress was for that reason grotesque, but his wig especially so. It had two large side curls, and a queue or pigtail, of at least

the length of eighteen inches, appended to it. This hung half-way down Rippingham's back, and was the subject of a constant joke by Erskine, with our old client, as he sat in court before him. A cause was tried at Guildhall, while Rippingham was so seated. The principal witness was a very eminent surveyor near Grays' Inn, a Mr. Wigg. His name was much played upon by Mr. Bearcroft, in urging the credit due to him. When Erskine got up for the defendant: "Gentlemen," said he, "you have had quite enough, I think, of the wig, and 'thereby hangs a tale:'" at the same time seizing Rippingham's pigtail close to his poll, he cocked it upright at the back of his head with ludicrous effect.

He is said never to have cared for consultations. Mr. Espinasse mentions his accompanying a client one evening to Erskine's chambers. In the room into which they were shown were between thirty and forty phials, each containing a slip of geranium. When Erskine came in, he said, "Espinasse, do you know how many sorts of geraniums there are?" "Not I, truly," was the reply. "There are above a hundred," said he; and then, much to the annoyance of the solicitor present, launched out into a long dissertation upon the various merits of each kind. At length he stopped, and said, "Espinasse, now state the case, for I have no time to read my brief." Mr. Espinasse did so, and there the *consultation* ended. The anxious attorney, however, had the pleasure next morning of hearing his case admirably argued by Erskine—"every point put with accuracy, and enforced with eloquence." As an evidence of his indifference to the etiquette of the profession, it is stated that he taught his favourite dog, Toss, to sit up in a chair with his fore-paws placed before him on the table; he would then tie one of his bands round the dog's neck, put an open book between his paws, and introduce him in this attitude to his clients.

Sir Vicary Gibbs, or, as he was nicknamed, Sir *Vinegar* Gibbs, although his career was scarcely such as to bring him within the scope of our chapter on "early struggles," was in the truest sense of the words the child of his own deeds. Born the son of an Exeter apothecary, his success arose in no degree from his family connexions; but we are not informed that he suffered at any period of his life any of those sad privations through which so many of our eminent lawyers have passed in their way to wealth and fame. He abstained from all the amusements of town during his pupilage, devoting himself wholly to the study of his profession. He practised for nearly twelve years under the r, rising slowly into notice. After his call he came into

a very considerable practice, especially in mercantile cases, to the law of which he had particularly devoted himself. He was first brought into public notice by holding a brief under Erskine, in the trials of Hardy and Horne Tooke, acquitted on the charge of high treason in 1794. It was at Horne Tooke's special request Gibbs was engaged on this occasion; for Tooke was well aware that his case might need not only an eloquent advocate, but also a good lawyer; and that however admirably Erskine would perform the part of the former, he was by no means equally qualified for the latter. In his reply, Erskine warmly acknowledged the assistance he had received from Gibbs. "I stood here," he said, "not alone, indeed, but firmly and ably supported by my honourable, excellent, and learned friend." Here he was interrupted by a noise in the court. "I am too much used to public life," he continued, "to be at all disconcerted by any of these little accidents, and, indeed, I am rather glad that any interruption gives me the opportunity of repeating a sentiment so very dear to me. I stood up here, not alone, but ably and manfully supported by this excellent friend who sits by me." In 1805, Gibbs was made Solicitor-General, and afterwards Attorney-General. His Attorney-Generalship was chiefly distinguished by the number of ex-officio informations which he filed against the press. Within three years he filed informations against seventy persons, while in the thirty years preceding 1791 only seventy persons had been prosecuted altogether. "Sir Richard Philips," so writes Sir Richard himself, "was witness in a cause in which Sir Vicary asserted, in his coarse way, that if any publisher bought a book without consulting reviews in regard to former works of the same author, he was the greatest fool in Christendom, and ought not to be allowed to walk about without a keeper. Sir Richard, however, said he never read them. A few days afterwards, they were in the drawing-room at St. James's. Sir Vicary Gibbs, at a great distance across a crowd of heads, recognised the sheriff by a continuance of cordial salutations, which were at first gravely received, and not returned; but in a few minutes he bustled through the throng, and held out his hand. The sheriff smiled, and remarked that, after all which had passed in the papers, it was strange to see them in that attitude. 'Pshaw, sir, do you think I regard newspapers?' 'Yet,' rejoined Sir Richard, 'you have as great an interest in them as a publisher in reviews.' 'You are right, you are right, sir; but you must not expect a pleader to be always logical. The man must be distinguished from the advocate; I hope we are friends, and shall continue so.'"

Waspirish and restless as was Gibbs's temper, in this in-

stance his anxiety to become reconciled with that most conceited of Pythagoreans showed a right spirit.

Having but little humour and no wit, his efforts to appear jocose were ludicrous enough. They provoked laughter, it is true; but the laugh was *at*, not *with*, him. A clergyman, refused by his diocesan a licence to a lectureship, on the ground he had preached against Infant Baptism, applied to the King's Bench for a mandamus, filing at the same time affidavits to the effect that his preaching had induced many people to bring their infants to the font who had not done so before. This denial reminded him, the Attorney-General observed, of a nurse, who, in cutting some bread and butter for a child, happened to let the bread fall, and exclaimed, in a pet, "rot the loaf;" the child reported the exclamation to the mother, when the nurse not only denied the words, but declared she had said "bless the bread." Gibbs, although an admirable advocate, where clear logical statements and mere ingenuity were required, was not sufficiently acquainted with the world to be effective, in cases where feelings were to be appealed to, and sympathies excited. He said once, "What can a girl of seventeen know of love? It is preposterous to suppose such a thing possible!" His studious habits in the early part of his life had debarred him from the opportunity of acquiring much knowledge on such a subject. When he appeared as prosecutor, in a case arising out of a riot in a theatre, Mr. Scarlett complained that he had not made sufficient allowance for the impatience of an audience,—imputing this to his ignorance of theatrical matters. It was with some warmth Gibbs repelled the imputation, and gravely asserted that he *had been* in a theatre when a young man. Towards attorneys Gibbs nourished feelings akin to anything but Christian charity. He used to call them the prowling jackals, the predatory pilot-fish of the law. Once, while addressing the court in an action, in which the attorney of one of the parties had played a very disreputable part, Gibbs suddenly exclaimed, looking at his victim, "Does any of you want a dirty job to be done? There stands Mr. Channing, the attorney, ready to do it." The judge stopped him; but Gibbs would not desist. "I will not be silenced: the fellow deserves to be exposed, and I will expose him." While on the circuit, an attorney late one night brought him a heavy brief: Gibbs snatched it from his hand. "Is all this evidence?" he inquired, in a sharp, quick tone. "No, sir; forty pages are my observations," was the reply. "Point out your observations." It was done; and Gibbs, tearing out the sheets, thrust them into the fire, and looking the attorney maliciously in the face, exclaimed, "There



go your observations!" Towards the bar he did not show a very courteous spirit. At consultations with his brethren, after stating his own view of the case, he went through the ceremony of asking their opinions, but took care to let them know he held it a ceremony only, and that his mind was made up. In court his demeanour was not much more gracious. Upon one occasion he received a severe, but well-merited reproof for his assuming and contemptuous bearing. Mr. Topping was retained as counsel against him; and, disgusted with the presumptuous and overbearing tone of Gibbs, adverted to it most severely in his address to the jury, summing up his observations with the well-known lines—

“ — he doth bestride the narrow world  
Like a colossus; and we petty men  
Walk under his huge legs, and peep about  
To find ourselves dishonourable graves.”

The tone and gesture with which this was delivered and enforced is not to be described. On the bench Sir Vicary Gibbs is said to have shown greater mildness of character, and to have in some measure renounced that habit of snarling and cavilling while at the bar which detracted from his usefulness as an advocate, and his credit as a man. How far this was the case may be guessed at from the following anecdote. A friend of Serjeant Runnington, who had never before visited the Common Pleas, having one day accompanied the serjeant to that court, was amused with hearing the judges and counsel addressing each other as brothers;\* and observed it was the first example he had found of Shakspeare's line,—

“We few—we happy few—we band of brothers.”

HENRY IV. Act iv. Sc. 3.

“We have a different version of that here,” said Runnington; “it is, ‘we, few happy, band of brothers.’” “Whom do you mean by the ‘few happy?’” inquired the visitor. “Those who have no business,” said the serjeant; “for they do not come in contact with Gibbs.” A king's serjeant, since promoted to the bench, is said once to have

\* In former times, in the Court of Common Pleas, the counsel and the judges were constantly coming into collision. A particularly testy judge of that court, addressing a serjeant who was arguing before him, as “Brother,” a stranger remarked that he had never before heard a judge apply that fraternal epithet to a counsel. “Oh, sir,” said one of them, “it is nothing uncommon; they are brothers—that is, *brothers-in-law*.”

exclaimed, "I wish Sir Vicary would knock me down at once, and not keep continually pinching me."

Mr. Garrow, the son of a schoolmaster at Barnet, was for some time in the office of an attorney in the city. When a law student, he was a member of, and frequent debater at, the celebrated Robin Hood Society, at which Burke was, in his early days, a constant attendant. It was in this place that Garrow acquired that knowledge of life and manners which enabled him to cope successfully with the acute Topping and the brilliant Erskine. He distinguished himself very shortly after he was called in the prosecution, at the Old Bailey, of a notorious sharper, who had stolen a bill of exchange, under pretence of getting it discounted. The prisoner had retained some of the ablest counsel at the bar, and the leader, presuming on Garrow's youth and inexperience, declared, in a presuming tone, that the fact, as proved, did not amount to a felony. Garrow replied with so much readiness and point, that the presiding judge (Mr. J. Heath) left the case to the jury, reserving the point of law for the consideration of the twelve judges, by whom the conviction was affirmed. Of this circumstance, which brought Garrow at once into notice, he was reminded in after life. Some years subsequently, when at the height of his reputation, he was examining a witness in the King's Bench, and among other questions he asked him if he were not a fortune-teller. "I am not," replied the witness; "but I can tell yours." "What is that to be?" asked Garrow. "Why, sir, as you made your first speech at the Old Bailey, so you will make your last there." "Witness!" exclaimed Lord Kenyon, quite scandalized, "I shall commit you for your insolence." "Take care, my lord," was the answer, "that you do not commit yourself."

On another occasion, Garrow was examining an old spinster, for the purpose of proving the tender of a certain sum of money having been made, but found some difficulty in making out his case. Jekyll, who was in court at the time, scribbled the following epigram, and threw it over to him:—

"Garrow, submit—that tough old jade  
Will never prove a *tender maid*!"

It used to be said of Garrow that he was not only an advocate, but an actor; and that when silent he did not cease addressing the jury by the change in his features.

The reputation of Mr. Jekyll has extended far beyond the limits of Westminster Hall and the Westminster Circuit. In an age of wits, he was esteemed a wit; and though, with the usual liberality of the public, the credit

of many a *bon mot* has been awarded him which was not fairly his own, sufficient evidence has been preserved of his inexhaustible fund of fanciful humour, to lend colour to the fraud. Once Erskine, whose irritable constitution subjected him at times to the attacks of hypochondria, with a lachrymose visage, addressed him in the court of King's Bench, complaining "That he had a severe pain in his bowels, and he had tried remedy after remedy without obtaining relief." "A pain in your bowels?" exclaimed Jekyll, "a pain in your bowels? Get yourself made Attorney-General, Erskine, and then you will have no bowels at all!" The following *jeu d'esprit* is not unworthy his reputation. Lord Eldon, it should be observed, always pronounced the word *lien* as though it were *lyon*, and Sir Arthur Pigott pronounced the same word *lean*. On this Jekyll wrote—

"Sir Arthur, Sir Arthur, why, what do you mean  
By saying the chancellor's *lion* is *lean* ;  
D'ye think that his kitchen's so bad as all that,  
That nothing within it can ever get fat ?"

A little fellow, who had scarcely any business, was one day endeavouring to get the judge to attend to a motion he wanted to make—but it was no use; he never could catch the judge's eye. Jekyll looking at the bench, said, in no subdued tone, "*De minimis non curat lex.*" A Welsh judge, famous both for his neglect of personal cleanliness and his insatiable desire for place, was once addressed by Mr. Jekyll: "My dear sir, as you have asked the minister for everything else, why have you never asked him for a piece of soap and a nail-brush?" Some one told Jekyll that he had been down into Lord Kenyon's kitchen, and saw his spits shining as bright as if they had never been used. "Why do you mention his spit?" retorted the humourist; "you must know that nothing turns upon that." In reference to the same judge, Jekyll observed, that "It is lent all the year round in his kitchen, and passion week in his parlour." An attorney named Else, rather diminutive in his stature, and not particularly respectable in his character, once met Mr. Jekyll: "Sir," said he, "I hear you have called me a pettyfogging scoundrel. Have you done so, sir?" "Sir," replied Jekyll, with a look of contempt, "I never said you were a pettyfogger or a scoundrel, but I said that you were *little else*!"

It is related of Mr. Serjeant Hullock, afterwards raised to the Bench of the Court of Exchequer, that he was concerned in a cause of great importance, in which he was instructed not to produce a certain deed unless it were abso-

lutely necessary. Either from forgetfulness, or from a desire to terminate the matter at once, Hullock early in the cause produced the deed, which, upon examination, appeared to have been forged by the client's attorney. Mr. Justice Bayley, who was trying the cause, desired the deed to be impounded, in order that it might become the subject of a prosecution; before this could be done, Mr. Hullock said he wished to inspect it, and on its being handed to him, returned it to his bag. The judge remonstrated, but in vain: "No earthly power," said Mr. Hullock, "shall induce me to surrender it. I have incautiously put a fellow-creature's life in peril, and though I acted to the best of my discretion, I should never be happy again should a fatal end ensue!" The judge still continued to remonstrate, but declined to act until he had consulted the other judge. The consultation came too late, the deed was, in the meantime, destroyed, and the rascally attorney escaped. Too much praise, however, cannot be given to the honest and intrepid advocate.

## CHAPTER IV.

## THE BENCH AND THE WOOLSACK.

THE independence and integrity of our judges is one of the corner-stones of our liberties. Even in the worst times, when the corruption of public men was well-nigh universal, instances of judicial firmness and uprightness may be discovered, presenting a vivid contrast to the prevailing depravity.

In the famous case of ship-money, the judges were almost unanimous for the king. Mr. Justice Croke, however, declared that he believed the law to be opposed to the claims of the crown. Finding, however, that the opinions of his brethren were against him, and conscious that his resistance, while it would fail in obtaining judgment for the defendant, would involve the loss of his own place, and the ruin of his family, he at last resolved to give way, and to concur with the other judges in deciding in favour of the crown. "A few days before he was to argue," says Whitelock, "upon discourse with some of his nearest relations, and most serious thoughts of this business," having intimated his intention of giving way, his wife, who was a very good and pious woman, told him, "that she hoped he would do nothing against his conscience for fear of any danger or prejudice to her or his family; and that she would be contented to suffer want or any misery with him, rather than be an occasion for him to do or say anything against his judgment and conscience." To his eternal honour and our great benefit, Croke, when the hour of danger arrived, decided as his conscience directed, and thus saved his memory from the obloquy in which his colleagues became justly involved. David Jenkins, a Welsh judge in the time of Charles I., when the rebellion first broke out, imprisoned and otherwise punished, as guilty of high treason, many persons who had taken up arms against the king. Having himself been captured by the parliamentary forces, he was brought up to London, and committed to the Tower. Whitelock mentions that when he was brought before the Court of Chancery to answer to a bill that had been filed against him, he courageously told the court, "that he ought not, and would not, submit to the power of the court; for it was no court, and their seal was counterfeit." For this he was committed to Newgate, and was afterwards impeached for high treason by the House of Commons. On being brought before the house, the intrepid old judge re

fused to kneel at the bar, telling the house that "he denied their authority, and that they wronged the king, and that although they pretended to protect the law, there could be no law without a king," and "used," says Whitelock, "high expressions against the parliament and their authority." For his boldness, the house fined him £1000, and ordered him to be again committed to Newgate, whence he was transferred to Wallingford Castle. An act was afterwards passed for his trial in the High Court of Justice, and every effort was made to induce him to submission, and a recognition of the usurping powers. Several members of the House of Commons waited on him for this purpose, but the sturdy Welshman was inflexible. At last he was told that, if he continued thus obdurate, he would be marched to execution. "So be it," he exultingly exclaimed; "but I shall suffer with Magna Charta under one arm and the Bible under the other!"

Dr. Parr has observed, that to say of a judge that he was incorrupt was hardly to eulogize him. To the purity with which justice is and has been administered between man and man in this country, may be with justice ascribed the rapid progress towards a free and enlightened government which is discernible throughout our history.

To Sir Matthew Hale's integrity and independence a very competent witness has borne very honourable testimony. "I remember," says Dryden, in his *Essay on Satire*, "a saying of King Charles II. on Sir Matthew Hale, who was doubtless an uncorrupt and upright man, that his servants were sure to be cast on a trial which was heard before him; not that he thought the judge was possibly to be bribed, but that his integrity might be too scrupulous; and that the causes of the crown were always suspicious, when the privileges of subjects were concerned." A circumstance mentioned by Roger North confirms this statement. "A courtier who had a cause to be tried before him got one to go to him, as from the king, to speak for favour to his adversary, and so carried his point; for the Chief Justice could not think any person to be in the right that came so unduly recommended." At the assizes in Cardiganshire, in 1832, the defendant in an action sent a statement of his case, with a ten-pound note enclosed, addressed to Mr. Justice (now Baron) Alderson, at his lodgings. When the learned judge next day took his seat on the bench, he mentioned what he had received the evening before, and declared his intention of placing the letter in the hands of the Attorney-General for the purposes of a prosecution against the offender. It having, however, been intimated to him that the offence had been the result rather of ignorance than of crime, the

judge returned the money, censured the defendant, and agreed to allow the matter to drop. It has, however, been whispered that, at a comparatively late period, efforts were made to tamper with the integrity of the judges. Mr. Justice Yates, it has been said, was one whose virtue was thus assailed. But he turned a deaf ear to all the solicitations of the minister, and rejected his overtures with scorn and contempt. Surprised at his firmness, we are told his tempter procured a letter from the sovereign to be sent to him; but he, when he received it, suspecting something wrong, returned it unopened. In 1767, ministerial influence was exercised very liberally amongst the judges. It is said the means adopted was giving them lottery tickets, and Mr. Justice Aston was actually seen to dispose of one of his in "Change Alley. When upbraided with such conduct, he coolly replied, "I think, sir, I have as good a right to sell my tickets as my brother Willes." Perhaps, however, scandal has been too busy with the characters of these learned judges.

Exalted as is the dignity of the judge, his labours are severe, his responsibility heavy. He is often placed in such situations as require from him the utmost control of his feelings, while his daily occupations demand the constant exercise of the highest faculties of his mind. Sir George Rooke had once to preside at the trial of a young woman, who was charged with having stolen a saw, valued at tenpence, from an old-iron shop. The evidence was clear against her; but it was proved she had committed the offence from the pressure of extreme want. The jury felt the hardship of the case, and the cruelty of punishing with severity an offence committed under such circumstances; and, despite the clearness of the evidence, consulted for some little time in doubt together. At length, however, they agreed, and the foreman rising with evident agitation, delivered their verdict—GUILTY. Upon this, Mr. Justice Rooke addressed them in the following terms:—"Gentlemen of the jury, the verdict which you have given is a very proper verdict. Under the circumstances of the case you could have given no other. I perceive the reluctance with which you have given it. The court, sympathising with you in the unhappy condition of the prisoner, will inflict the lightest punishment the law will allow. The sentence is that the prisoner be fined *one shilling* and be discharged; and if she has not one in her possession, *I will give her one* for the purpose." The audience, jury, and counsel, showed how deeply they were moved by the language of the venerable judge. However, "A popular judge," says Bacon, intending thereby a judge who looks not so much to the law

as to popular applause, "is a deformed thing." This is a character which has been given, but by an unfriendly writer, to Sir Matthew Hale. Alluding to the cause in the King's Bench, Roger North says, "It was tried, I think, twice, but I am sure once before the Lord Chief Justice Hale, who was most propitious to a poor man's cause; and before him, *if any leaning were*, it was of his favour to that side that most seemed to be oppressed."

"Men in great place," says a great authority, "are thrice servants; servants of the sovereign or state, servants of fame, and servants of business; so as they have no freedom, neither in their persons, nor in their actions, nor in their times." The duties which devolve on those to whom are confided the reins of justice, if honourable, are severe. And this is especially the case with the Chancellor. The first equity judge in the realm, he is a minister of the Crown, an important and influential member of the Cabinet, and its adviser on the numerous legal questions which come from time to time under its cognizance. Thus is the foreign, colonial, and domestic policy of the empire perpetually coming under his consideration. He has also to afford the sovereign his counsel on the subject of applications for an exercise of the royal mercy on behalf of condemned criminals. He has occasionally to attend the Privy Council. He is Speaker of the House of Lords, and is expected to take a prominent part in all debates of importance. Much of his time is also occupied in examining charters, letters patent, and other instruments which pass the Great Seal, for the legality of which and for their conformity with the warrants on which they are founded, he is personally responsible. "There, my lord," said Charles II., when delivering the Great Seal to North, "take it—you will find it heavy." Heavy indeed did he find it! On his death-bed, according to his brother, the Lord-Keeper confessed "that he had not enjoyed one easy and contented minute since he had had the Seal." When somebody told Jeffreys, after he was promoted to the woolsack from the King's Bench, that he would find his business heavy, he replied, "No! I will *make* it light." This is such a speech as might have been expected from so unscrupulous and unprincipled a judge as Jeffreys—but to any man who thinks rightly and feels rightly, the Chancellorship of England will be indeed a heavy thing. Shortly after Lord Eldon succeeded to the Chancellorship, after the resignation of the Whig government of 1806, he is reported to have exclaimed to a right reverend bishop, "Lord Erskine, I am sure need not envy me; for I'm confident it is far better to be a dray-horse than a Lord Chancellor." When this observation was re-



ported to Erskine, he observed, "Why then does he not resign, and put a stronger horse into the team?"

Even as far back as the reign of James I. the Chancellor's duties were very weighty: when Lord-Keeper Williams first held the Great Seal, the press of business was so great, that he was compelled to sit in his court for two hours before daylight, and to remain there until between eight and nine, and then repair to the House of Lords, where he staid till twelve or one: after taking some refreshment at home, he would return to his court and hear such causes as he was unable to hear in the morning; or, if he attended at council, he would resume his seat in Chancery towards evening, and sit there until eight o'clock, and even later: on reaching home after all this fatigue, he read all the papers his secretaries laid before him; and then, although the night was far gone, would prepare himself for the House of Lords the next day. Whitelock mentions himself and his brother commissioners sitting in Chancery from five o'clock in the morning to five o'clock in the afternoon.

Sir Lancelot Shadwell, the late Vice-Chancellor of England, in his evidence before the Chancery Commission, declared the business in the Court was then so heavy, "that *three angels* could not get through it." Sir Thomas More, when he took his seat for the first time in the Court of Chancery, addressing the bar and audience, said, "I ascende this seate as a place full of labour and danger, voyd of all solide and true honour; the which by how much the higher it is, by so much greater fall I am to feare." Laborious indeed it was then, and still more laborious is it now—but void of honour it never was, and never will be; and all such professions of indifference to its dignity, because of the duties annexed to that dignity, as much deserve contempt as they meet with neglect. "When I was Chancellor," says Lord Bacon, "I told Gondomar, the Spanish Ambassador, that I would willingly forbear the honour to get rid of the burthen; that I had always a desire to lead a private life. Gondomar answered, that he would tell me a tale:—'My lord, there was once an old rat that would needs leave the world: he acquainted the young rats that he would retire into his hole, and spend his days in solitude, and commanded them to respect his philosophical seclusion. They forbore two or three days: at last one, hardier than his fellows, ventured in to see how he did; he entered and found him sitting in the midst of a rich parmesan cheese!'" Until the reign of Henry VII. the pressure on the Chancellor was not considerable—not more than sixty causes a-year being heard on an average in the Court of Chancery.

"The Court of Equity," says Coke, "increased most when Cardinal Wolsey was Lord Chancellor of England, of whom the old saying was verified, that great men in judicial places will never want authority." By this remarkable man, the jurisdiction of the Chancery became extended, although defined. He seems to have paid much attention to his duties—never deciding any cause of importance without having first consulted the judges; and, according to Cavendish, his gentleman usher, he had in his household "four counsellors learned in the law." Cavendish has left a very minute account of "the manner of the Cardinal's going to Westminster Hall," which is worth quoting. After hearing two masses, "going into his chamber again, he demanded of some of his servants if they were in readinesse, and had furnished his chamber of presence and waiting chamber: he being then advertised, came out of his privy chamber, about *eight of the clock*, ready apparelled, and in red, like a cardinal: his upper vesture was all of scarlet, or else of fine crimson taffeta, or crimson satin ingrained, his pillow of scarlet, with a black velvet tippet of sables about his neck, holding in his hand an orange, the meat or substance thereof being taken out and filled again with a part of sponge, with vinegar and other confections, against pestilent agues, the which he most commonly held to his nose when he came to the presses, or when he was pestered with many visitors; and before him was borne the Broad Seal of England and the Cardinal's hat by some lord or some gentleman of worship, right solemnly. And as soon as he was entered into his chamber of presence, where there were daily attending on him as well noblemen of this realm as other worthy gentlemen of his own family, his two great crosses were there attending upon him; then cry the gentlemen ushers that go before him bareheaded, "On masters before, and make room for my lord!" Thus went he down into the hall, with a serjeant-at-arms before him, bearing a great mace of silver, and two gentlemen carrying two great plates of silver; and when he came to the hall-door, there his mule stood trapped all in crimson velvet, with a saddle of the same. Then was attending him, when he was mounted, his two great cross-bearers, his two pillow-bearers, all upon great horses, in fine scarlet, then he marched on with a train of gentry, having four footmen about him, bearing every one of them a poleaxe in his hand; and thus passed he forth till he came to Westminster, and there alighted and went in this manner up to the Chancery, and stayed a while at a bar made for him beneath the Chancery, and there he communed, sometimes with judges and sometimes with other

persons, and then went up to the Chancery and sat there till eleven of the clock, to hear suitors and to determine causes."\*

Wolsey, although an ecclesiastic, was not altogether disqualified for his office, having, as Cavendish, his affectionate biographer tells us, acted for some time as a reporter in the Star Chamber, and thus acquired much knowledge of equity practice; but since his time, with a very few exceptions, the Chancellors have been persons who had received a legal education.

Lord Shaftesbury, whose elevation was due to his political talents, is said by Dryden to have made an able Chancellor.

"Yet fame deserved no enemy can grudge,  
The statesman we abhor, but praise the judge.  
In Israel's courts ne'er sat an Abethdin  
With more discerning eyes, or hands more clean;  
Unbribed, unsought, the wretched to redress,  
Swift of dispatch, and easy of access.  
Oh! had he been content to serve the crown,  
With virtue only proper to the gown!"

If we may credit Roger North, however, his judicial career deserves to be characterised in very different terms. Charles II. used to say of him, that he had more law than

\* Roger North gives a ludicrous account of the last time in which the judges' procession to Westminster, on the first day of term, was made on horseback, and which may be no inappropriate *pendant* to our extract from Cavendish. Speaking of Lord Shaftesbury, he says, "His lordship had an early fancy, or rather freak, the first day of term to make his procession on horseback, as in the old time the way was, when coaches were not so rife. And accordingly the judges, &c. were spoken to, to get horses, as they and all the rest did by borrowing and hiring, and so equipped themselves with black foot-cloths in the best manner they could. And divers of the nobility, as usual, in compliment and honour to the new Lord Chancellor, attended also in their equipments. Upon notice in town of this cavalcade, all the show company took their places at windows and balconies, with the Foot Guards in the streets, to partake of the fine sight, and being once settled for the march, it moved, as the design was, stately along. But when they came to straights and interruptions, for want of gravity in the beasts and too much in the riders, there happened some curveting, which made no little disorder. Judge Twisden, to his great affright and the consternation of his grave brethren, was laid along in the dirt. But all at length arrived safe, without the loss of life or limb in the service. This accident was enough to divert the like frolic for the future, and the very term after they fell to their coaches as before."

all his judges, and more divinity than all his doctors. He was not, however, presuming in the discharge of his office, for he used to sit in the Court of Chancery in a brown instead of a black silk gown, because he had not been regularly bred to the bar.\* North, in his *Examen*, states he always sat in an ash-coloured gown, silver laced, and full-ribboned pantaloons, without any black at all in his garb, unless it were his hat.

Courtesy and amenity, so far from being inconsistent with dignity, are necessarily involved in it. That we have had judges who have violated, on the bench, the rules of good breeding recognised in private life, we are forced to confess; but we may observe that those judges, with all their learning and acknowledged integrity, have in consequence failed to obtain the approbation, or to conciliate the esteem, of the bar that practised before them. Sir John Sylvester, who was for a long time Common Serjeant and Recorder of London, rendered himself exceedingly obnoxious by his coarseness, the violence of his temper, and his utter disregard of the rules of courtesy.† It has actually been said that he used to call the prisoner's calendar "a bill of fare!"

A judge not long deceased, whose personal character and learning were above reproach, and who, in all other ways, was a credit to the bench, without imitating Sylvester's vulgarity, was in the habit of giving way to his temper in a manner not at all consistent with the stateliness of his office. He once addressed a counsel, who was opening the

\* Shaftesbury was one of the most remarkable men recorded in English history. His wit and address were unequalled. The king once said to him, "Shaftesbury, thou art the greatest rogue in the kingdom." "Of a subject, sir," coolly replied Shaftesbury, with a bow. The Duke of York, afterwards James II., meeting him shortly after he had delivered a very powerful speech against the government, did not shrink from applying to him many contumelious epithets. "I am glad your royal highness has not also called me Papist and coward," was his retort. After having himself induced the king to issue a declaration of indulgence to Dissenters, he attacked the measure violently in the House of Lords, and was very feebly answered by Lord Treasurer Clifford. The king and the Duke of York were both present at the debate, and after Clifford had spoken, the king whispered to the Duke, "Brother, what a fool you have of a Treasurer." "And, brother," replied the Duke, "what a rogue you have of a Chancellor!"

† Sir John Sylvester was the son of a Jewish or Portuguese physician, and obtained practice by a constant attendance at all the petty courts of the town. He was exceedingly dark in his complexion, and thus obtained the cognomen of "Black Jack."

pleadings, "Mr. —, how you mumble!" "Now I hope to-day," he observed to the bar one morning, on circuit, on taking his seat, "that you will remember that you are gentlemen!" "Mr. —," on another occasion, he said to a very eminent barrister, "you are a very learned man in your profession, but you are a very obstinate one. You say that you submit, when you don't submit at all, but keep your own opinion. What is the use of saying you bow, *when you don't bow?*" "Mr. —, you have opened your case in the most bungling manner I ever saw in my life." "Really, Mr. —, you hang down your head like a school-boy." He once presided at the trial of a cause in which several very absurd and laughter-provoking things were said by the witnesses. The bar were convulsed with laughter. He in vain endeavoured to check the ceaseless cachinnations. The more he scolded, the louder every one laughed. There was one "youthful wig" the general contagion did not reach. He was too solemn and unbending to degrade himself by committing so unseemly an act as laughing, but sat with rigid muscles and composed visage. "Who is that very sensible young man?" inquired the judge of his clerk, in an audible whisper. "I should be glad to have the pleasure of his acquaintance."

There have been judges who have forfeited the respect of the bar, and, consequently, that influence which it is desirable they should maintain, by a perpetual petulance of temper. Although the judge may not be guilty of those violent excesses which have disgraced some who have worn the ermine, still his fractiousness, and his want of patience and self-control, render him almost equally disliked. With many virtues, and much ability, a judge of this stamp rejects the opportunities he possesses of conciliating the esteem of the bar, and the approbation of the public, and such a one was the otherwise excellent individual of whom we have been relating some anecdotes. At the Salisbury assizes, where he was presiding in the Crown Court, a man was convicted of having stolen a sack of oats. He was sentenced by the judge to imprisonment for eighteen months, and to be kept at hard labour. As he was leaving the dock, he turned round and addressed the judge with an impudent grin, "I say, my lord, how am I to get *my wages* for my labour?" The judge immediately ordered him to be brought back, and changed his punishment to *three years' transportation*.

The court often considers it necessary to check observations of the counsel, and the long, irrelevant stories of witnesses; but it is right that this should be done with suitable dignity. A very worthy judge, now deceased, the late Chief

Baron Thompson\* had a habit of checking witnesses by continually calling out "Stay, stay," from whence he got the name of the "old staymaker." Some of the judges that had previously presided in inferior courts of local jurisdiction, have very often displayed on the bench an approach to that familiarity whereof contempt has been pronounced the offspring. Jeffreys, who had been Recorder of London, and whose early practice had been in the inferior courts of the metropolis, was distinguished on the bench for his affected wit and vulgar humour. Lord Delamere, who was tried before him when he was Chief Justice of Chester, says, that "he behaved himself more like a jack-pudding than a judge. He was mighty witty upon the prisoners at the bar, he was very full of his jokes upon the people that came to give evidence, not suffering them to declare what they had to say in their own way and method." Burnet says of him, that "he did not consider the decencies of his post, nor did he so much as affect to seem impartial as became a judge, but ran out upon all occasions into declamations that did not become the bar, much less the bench. He was not learned in his profession, and his eloquence, though viciously copious, yet was neither agreeable nor correct."

Lord Eldon was exceedingly humorous, and was fond of enlivening the tedium of a cause with what charitably-disposed people, who do not aspire to the reputation of critics, might call—*wit*. The following case has been often in print, but we have still thought it right to give it a place in our pages, as to some of our readers it may perhaps be new:—A plaintiff, Metcalfe, had a patent for hair-brushes of a particular sort, and the defendant, Thompson, was selling without license brushes of the same sort. No counsel at first appeared for the defendant. The Lord Chancellor said—"This injunction must be *brushed off*, unless some counsel be here soon to support it." When counsel came in, Sir Samuel Romilly, who opposed the patentee, produced an old brush, which had been used by a wig-maker for above thirty years, and which was the same in principle as the patent brush.

\* When the Chief Baron was on circuit, at the Judges' dinner there was present a learned dignitary of the church who did ample justice to all the good things on the table. The cloth having been removed, "I always think, my lord," said the reverend gentleman, "that after a good dinner a *certain* quantity of wine does a man no harm." "Oh! no, sir; oh! no, by no means," replied the Chief Baron, smiling, "it is the *uncertain* quantity that does the mischief."

*Lord C.*—"Is it a *Fox's brush*?" (The owner of the brush was named Fox.)

*Sir S.*—"It is, my lord."

*Lord C.*—"Shew me the brushes."

Upon this, four head brushes, and one knee-buckle brush were handed up to his lordship. Nothing was heard but peals of laughter. The only grave persons in the court were the plaintiff and the defendant.

*Sir S.*—"Now, my lord, ingenious as the construction of these brushes may be, your lordship will find that it is exactly the same as this brush of my friend Fox, which has been used for thirty years."

*Lord C.*—"Hand me up this old *fox's wig*: really this antique looks uncommonly well."

*Mr. Treslove.*—"Your lordship will see, by looking at it, that it is the same to a *hair* as the patentee's brushes; only they look a little fresher."

*Lord C.*—"That is, *Mr. Tress-love*, because they are younger. I have examined this old brush, and I see it is a curiosity of the kind; but when you and I get as old, and our tresses have been as well worn, we shall perchance look as antique."

*Mr. Treslove* said he had advised his client "not to *shew his brush*."

*Lord C.*—"Then I must say that you being a *pursuer*, were *at fault* there; for if an injunction is granted by this court, the article on which such an injunction is granted must be lodged with the master. I remember, in a case of waste, that a person actually *fixed an oak tree* to an affidavit he had made, to shew the court of what nature the trees in question were." (A loud burst of laughter.)\*

With all his legal accomplishments, Lord Eldon owed much of the favour with which he was regarded by the

\* A similar strain of wit (?) was displayed in the trial of a cause in 1824, in which one Mr. How was plaintiff, and one Mr. Much defendant. Mr. Serjeant Pell, who was concerned in the case, punned on the parties' names all through his speech. After putting "How" through all the changes that it could undergo, he observed that "he had still a difficult task to perform, for *Much* remained to be done." He then went on and assured the jury, that, although the case was one of very great importance, and the proof was very brief indeed, yet, if they gave the verdict, which he earnestly trusted they would, the reflection would at least be theirs, that they had *done* "*Much*." He then went on to speak of these two unhappy names together, and "*How-Much*" was presented in all its combinations; but, with all his wit, the learned serjeant did not succeed in joking the jury out of a verdict.

Prince Regent to his convivial and social qualities.\* Sir Nathaniel Wraxall tells us that in the year 1815 Eldon fancied his health and strength were failing him, and apprehending that he should be able no longer properly to discharge his duties, wrote to the Prince entreating permission to resign the Great Seal. The Prince, in reply, addressed to him a letter, in which he besought him to withdraw his request; observing, amongst other flattering compliments, that the Chancellor "was the only man in the cabinet upon whom he could repose with confidence." Lord Eldon, thus solicited, yielded to the Regent's wishes. Sometime afterwards he was dining with Lord Liverpool, and after dinner, when the bottle had circulated more than once, in a moment of exhilaration, he took out of his pocket the Prince's letter, and put it into the hands of his host. Lord Liverpool felt severely the preference thus assigned to the Chancellor, and the next morning waited on the Prince, and tendered his resignation, greatly to the Regent's surprise. On being asked his reasons for so unexpected a step, the Premier stated what had occurred, and expressed his conviction that "if confidence could no longer be reposed in him, it became him to retire from office." The matter is said to have been finally adjusted over another bottle by the Regent's mediation.

His *bonhomie*, gaiety, and liveliness of spirit remained with him to the last. Lord Stowell, a short time before his death, lapsed into a state of mental imbecility. He was compelled to adhere strictly to a system which had been

\* Lord Stowell, his brother, was of a lively temperament, and extremely fond of society. He acknowledged to Mr. Croker that he was "very convivial, and readily confessed his partiality to a bottle of port." One day, when some one objected to the practice of having dinners for parish or public purposes, "Sir," said Lord Stowell, "I approve of the dining system; it puts people in a good humour, and makes them agree when they otherwise might not: a dinner *lubricates* business." Many of Lord Stowell's most luminous judgments, it is understood, were composed under the influence of wine, as was Blackstone's *Commentaries*, although neither judge was ever guilty of anything that could be called excess. Boswell records a conversation between Scott and Johnson, in which Scott asserted that Addison wrote some of his best *Spectators* when excited with wine; an assertion which Johnson appeared unwilling to credit. Stowell was in the habit of joining the literary parties at the "Mitre," where some of the highest ornaments of our literature used to assemble. He would endeavour to induce his brother John to accompany him to those symposia; but was invariably refused with the constant phrase, "Brother, I sup with Coke to-night."



prescribed to him by his medical attendant, and which limited him to a very small quantity of wine. Lord Eldon came down to Earley Court to visit his brother, to whom he was most affectionately attached. The two sat down to dinner together; and, in honour of his guest, Lord Stowell exceeded his prescribed number of glasses. As the wine circulated, a new life seemed to infuse itself into their veins, and these sexagenarian lawyers, each of whom had exceeded, by several years, the usual term allotted for human life, displayed in their conversation all the vivacity and ready humour which generally belongs to the impulsive and sanguine temperament of youth. In short, nothing could exceed the frankness and amenity of Lord Eldon's manners. A short time before his death, he stopped for the night at a country inn, where he accidentally learnt that two young barristers were then staying. Although they were personally unknown to him, he sent them his compliments and an invitation to dinner. The invitation was joyfully accepted, and the guests expressed themselves afterwards delighted, beyond measure, with the evening they passed with the ex-Chancellor. He related to them many anecdotes of his "early struggles," and characteristic traits of the many eminent professional men with whom, through life, he had associated, pushed round the bottle merrily, and left them charmed with his grace, his genius, and his suavity.

Mr. Bentham tells us that Lord Camden once said to him, that, in his hearing, Lord Mansfield had declared he always made it a principle never to listen to any private or *ex parte* statements, lest they should in some way influence his judgment, when he had to pronounce judicially on the matter which they concerned. Lord Camden added, that *his* principle was otherwise, and that he was never afraid of being improperly influenced by anything which he heard out of court.

Of Mr. Justice Buller, Mr. Cradock says, "The last time I ever met him at dinner, was on the day of his coming to Leicester, at the house of an eminent physician there. His lordship took leave of the company about twelve o'clock; but, lingering for a while, he returned to the table, and we played whist for several hours. At the assizes, on the Sunday, we all dined in the Newarks, Leicester; there were present, Judge Buller, Counsellor Newman, and some gentlemen who were all to meet again at Warwick: the general conversation was Donellan,\* and his guilt was asserted by

\* The case of Captain Donellan is well known. He had been a man of pleasure, and, becoming involved, poisoned his brother-in-law, Sir Theodosius Boughton, on whose demise he had a considerable reversion expectant. Walah, well known at the Beef-Steak

all ; the only doubt seemed to be, that, as Lady Boughton, the mother, was all but a fool, her evidence, which was necessary, might not be effective ; but it was acknowledged that she had been *privately examined at the Judges' chambers* in town, and they thought she might be produced. I am sorry to say it, that Judge Buller's charge at Warwick was imprudent, for it prejudged, or, rather, condemned, Donellan." The gross indecency in a judge thus discussing, or even suffering to be discussed in his presence, the guilt of a criminal that would afterwards be tried for his life before him, is too obvious to require comment.

Some judges have displayed a most injudicious and improper anxiety to prove that a seat on the bench had not altogether destroyed their talents for advocacy ; and, after a counsel (perhaps some old opponent in many a sturdy struggle) has concluded his speech, have, in charging the jury, taken the opportunity of making a very able reply to the address from the bar. This is a proceeding which is extremely indecent ; and is, in fact, a direct violation of duty. A judge, who was in the habit of doing so, got the very appropriate nickname of "*the judge advocate*." This worthy is reported to have boasted that *he had never lost above two verdicts since he had been on the bench*. Pemberton, before whom Lord Russell was tried, and who was twice removed from the bench, though a very able and eloquent advocate, made a very bad judge. He used to boast that he *made* and not *declared* the law. Lord-Keeper Guilford asserted that Pemberton, "in making law, had outdone King, Lords, and Commons." Sir James Eyre, Chief Justice of the Common Pleas, was remarkable for the quickness of his apprehension, and for the facility with which, very early in a case, he apprehended its true bearings. He never, however, interrupted counsel in their arguments, nor displayed any overweening attachment to his first impressions. He succeeded in keeping his mind free from anything like undue partiality or prepossession. Few judges appear to have been so open to conviction, although few were so capable of forming such correct views of the real value of the arguments presented to him. This was also a remarkable characteristic in a judge who was for

Club, accompanied Donellan to his trial. Getting close to the dock, Walsh kindly explained to him all the solemnities before his eyes. "There, Donellan," he said, "there's the jury ! there's the judge ! If you are found guilty, he will put on a black cap, and sentence you to be hanged. But it all depends upon the jury ; for they have only to say one single *monosyllable*, guilty or not guilty, and you be hanged or set at liberty !"

many years the object of veneration to the bar, and of respect to all who had an opportunity of seeing and appreciating the admirable spirit which distinguished his judicial career—Sir John Bayley.\*

The influence of a judge depends almost altogether on his bearing towards the bar. It is not, however, creditable to the profession, that they should be always taking a nice measure of the competency of the judge before whom they plead, and should slight the dignity of an office simply because it is unworthily filled. From the squabbles between the bench and the bar, the public are led to despise both, and to conclude that there must be some truth in those wholesale objections which ignorant reformers have advanced against our judicial system, and even our very laws.

"To the junior part of the bar," writes Mr. Espinasse, "Lord Kenyon was unencouraging and ungracious; to those more advanced in the profession, assuming and offensive. An irregular application made to him by the former, though it proceeded from inexperience only, was received without the indulgence that was due to it; if made by the latter, was refused with contumely." Dr. Dibdin, however, gives a very different account of Lord Kenyon's conduct. When young, it was the doctor's custom to attend the court of King's Bench, in which Lord Kenyon then presided. "It was usually my good fortune (being very regular in my attendance) to obtain a standing-place just above Erskine and Mingay, who, after a short time, seemed to recognise and to nod to me. The Chief Justice sat close by: one day, on retiring, he accosted me, and said, 'Well, young gentleman, do you intend to become one of us?' I replied, unhesitatingly, but respectfully, 'I should like it very much.' 'Try then,' was his immediate rejoinder. These words, which were always uppermost in my mind, directed me, in the first instance, to the bar." To Lord Mansfield's attention to the students in court, Mr. Espinasse has borne testimony: "They were admitted," says he, "to a seat on the

\* This amiable and excellent man, not more conspicuous for his profound knowledge than for his unaffected and acknowledged piety, is said to have made the following observations, after the conclusion of a very obstinately contested "horse cause." "Take my advice, gentlemen," said he, "and accommodate matters of this kind, if possible; for men lose more than twenty-five pounds in bringing an action on the warranty of a horse, even if they win; and such is the danger, from the evidence common in cases like this, that justice is no security of success to a man. I perceive that the gentlemen below me do not approve of this doctrine: but the truth must be told sometimes."

bench, and allowed there to take their notes without interruption. The present [late] Lord Grenville was a contemporary student with me; he, at all times, sat on the bench, on the right hand of Mr. Justice Ashurst, in which place he took his notes. This mark of attention, shown only to him when the court was full, was considered as a compliment to his rank. At *Nisi Prius*, every student of the four inns of court enjoyed an equal indulgence. The conduct of the King's Counsel was distinguished by similar courtesy: we were invited to sit within the bar, as affording us a greater facility of taking notes."

According to the respect paid to the bar by the judges is the respect the judges receive from the bar. Mr. Justice Leblanc, if we are to believe Mr. Espinasse, from whom we have so often quoted, was greatly disliked by the bar, through his stiff and haughty carriage. He always appeared to be in dread, lest, in adopting a less constrained bearing, he should become familiar and despised. He was ever the judge: probably wanting in his mind the essentials of dignity and self-respect, he sought to cover his defects by what Rochefoucault calls "a mysterious carriage of the body." Lord Bacon bids him who has risen to great place, "not be too sensible or too remembering of his place, in conversation and private answers to suitors; but to let it rather be said, 'When he sits in place, he is another man.'" There is a happy medium in these things, if one could only hit it. There is nothing more remarkable, in many of the most eminent of our lawyers that have graced the bench, than the agreeable and cheerful manners that have distinguished them in private life. A learned baron of the Exchequer, one of the ablest lawyers we can boast, is well known as the humourist of the bench; and yet there is none who is looked up to by the bar with more esteem and respect. Some time back he was dining at one of the city feasts, at which, as is not infrequently the case, there was so great a noise after dinner, as rendered the toastmaster's voice almost inaudible. This worthy, instead of giving "the army" and "navy" together, separated the two services; when therefore, the second toast was drank, the attorney-general supposing it was "the bar" which was proposed, rose to return thanks. Mr. Baron ———, being fortunately placed, perceived and enjoyed the learned gentleman's mistake. "Mr. Attorney, Mr. Attorney," said he, smiling, "give me leave to tell you, navy is not spelt with a *K*!" On the trial of a cause respecting the right of a copyholder to dispose of some "boulder stones" on the land, the present Chancellor, then Serjeant Wilde, contended that he would have the right to do so as he would have to pick up any me-

teoric stones which fell on his land—"I think he would burn his fingers, if he tried it, brother Wilde," observed the baron with a smile.

How absurd a judge may render himself, by placing himself in a position not suited to him, the following anecdote, related of Sir Pepper Arden (Lord Alvanley), the Master of the Rolls, by Sir Egerton Brydges, will prove. "I commanded a troop of fencible cavalry; and our colonel being very justly proud of his regiment, and anxious to show it off in all its manœuvres begged his friend, the learned knight, to come and review it on one of the downs near the city; no doubt because he thought him as good a judge of a regiment and its movements as he was of all the intricacies of a question at law; and his Honour being a very good-natured man, not at all like Sir Edward Law, then only King's Counsel, obeyed the summons. The little man, though I observed him something timorous and fidgetty, was placed in the front of the battle, and desired to inspect us with the severest scrutiny, for our colonel was sure that he would find nothing but to praise. At length came the charge—the colonel assured him that he might keep his station, for all was as safe as on his seat in the Rolls Court, and that at the word "halt!" the whole six troops in a line would stop dead, however loudly and fiercely they should come rattling on towards him. Unluckily the whole were fired with glory, and began to increase their speed, till, being on a blood-charger of considerable swiftness, my horse could not bear the clatter behind him, and off he shot beyond my momentary control. His Honour was right before me—he gave a shriek and a groan—I saw his distress, and by one mighty effort brought up my horse, and had the happiness thus to save the life of this eloquent oracle of the law, over whom I must otherwise have gone, sword in hand; and what a crush and manglement would then have ensued! The colonel made many apologies, and I got a severe rating."

At present, no counsel would venture to act as Mr. Newnham, an eminent advocate of the last age, is said by Mr. Cradock to have acted towards him. In former times it was the custom at Leicester to have an assize ball, at which, of course, the high sheriff was present. On one occasion, Mr. Cradock, who filled this office, attended the ball, as usual, and did not leave it until it was very late. As he had to dress and wait on the judge very early in the morning, he had not much sleep that night. Next morning, when the judge had taken his seat, Mr. Newnham stood up and said, "My lord, the high sheriff has only been in bed for about an hour, I understand, and I am sure he would be very happy to return to his lodgings, if your lordship would

please to dispense with his attendance." Mr. Cradock both felt and looked excessively embarrassed, having never said a word on the subject. The judge looked very condescending, and the court laughed, whilst Mr. Newnham stood by, enjoying the high sheriff's embarrassment.

Foote used to say of Clayton, Chief Justice of the King's Bench in Ireland, and who was an Englishman, and knew very little of the laws and customs of the country in which his judicial duties lay, that one day he observed to Mr. Harwood, a barrister eminent alike for his learning and his wit, that "numerous as were the English laws, one was found to be a key to the other; whereas here," said he, "it is just the contrary, as your laws are so continually clashing, that, upon my word, at times *I don't clearly understand them.*" "Very true, indeed, my lord," replied Harwood, with the utmost gravity, "*that is what we all say.*"

It is now proposed briefly and rapidly to review the career of some of our more eminent judges in the Equity and Common Law courts, dwelling rather upon those incidents in their lives which may be interesting to the general reader than upon such as might be the most instructive to the practical lawyer.

Amongst our earlier Chancellors none was more distinguished for his virtues or his learning than Sir Thomas More. Of his conduct whilst in office, Roper gives the following account.—

"He used commonly every afternoon to sit in his open hall, to the intent that if any person had any suit unto him, they might the more boldly come to his presence, and then open their complaints before him. Whose manner was also to read every bill himself, before he would award any subpoena, which, being matter worthy of subpoena, would set his hand to himself, or else cancel it. Whensoever he passed through Westminster Hall to his place in the Chancery, by the Court of King's Bench, if his father (being one of the judges thereof,) had been sat ere he came, he would go into the same court and there reverently kneeling down in the sight of them all, duly ask his father's blessing."

When one of his sons-in-law complained that he received no advantage from being so nearly connected with him, More told him that it was not so. "For sometimes," he continued, "may I, by my word, stand your friend instead, and sometimes may I by my letter help him; or if he have a cause depending before me, at your request *I may hear him before another*; or, if his cause be not all the best, yet may I move the parties to fall to some end or arbitrement. Howbeit this one thing, son, I assure thee on my faith, that if the parties will at my hands call for justice, then were it

my father stood on one side, and the devil on the other, his cause being good, the devil should have right."\* So vigorously did he apply himself to his duties, that having one day finished a cause, and called for the next in order, the registrar told him that there was no other waiting to be heard—on which circumstance the following epigram was written :—

When *More* some years had Chancellor been  
No more suits did remain ;  
The same shall never *more* be seen,  
Till *More* come back again.

He resigned the Great Seal, as is well known, because he could not concur with the court, in the matter of the King's divorce. The unfortunate fate of this excellent man is well known.

Egerton, Viscount Brackley and Earl of Ellesmere, was, during the reign of Elizabeth, Lord-Keeper of the Great Seal, and Master of the Rolls.† There is a traditional anecdote extant, "that the Queen happening to be in court while Egerton, then at the bar, was pleading a cause against the crown, she exclaimed, 'In my troth, he shall never plead against me again,' and caused him to be made one of her counsel, and afterwards Solicitor-General." His rise after this was rapid, until he obtained the honours of the woolsack. James I. raised him to the peerage, and made him Lord Chancellor. On his resignation, Egerton was created Viscount Brackley, and afterwards appointed Pre-

\* This reminds one of the oath of the judges in the Isle of Man—"By this book and the holy contents thereof, and by the wonderful works that God hath miraculously wrought in heaven above, and in earth beneath, in six days and seven nights I do swear that I will, without respect of favour or friendship, love or gain, consanguinity or affinity, envy or malice, execute the laws of this isle justly between our sovereign lord the King and his subjects within this isle, and betwixt party and party, as indifferently as the herring's backbone doth lie in the midst of the fish."—*Wood's Account of the Isle of Man.*

† A strange story is told of Egerton's birth and early life. He was the son of Sir Richard Egerton, and his mother is said to have been a servant-maid, named Sparkes, who lived in his father's house. She was so neglected by Sir Richard, as to be compelled to beg her bread from door to door. A neighbouring gentleman, a friend of Sir Richard, recognising in the child's features a strong resemblance to him, went to him, and representing how disgraceful it was suffering his own offspring to beg, induced him to have his child home, and to give it a good education. This child was afterwards Lord Chancellor of England.

sident of the Council. He thanked the king for this fresh instance of his regard, saying, however, "that these things were to him but vanities." "Surely all Christendom," says Fuller, "afforded not a person which carried more gravity in his countenance and behaviour than Sir Thomas Egerton, insomuch that many have gone to the Chancery on purpose only to see his venerable garb (*happy they who had no other business!*), and were highly pleased at so acceptable a spectacle."\*

He was succeeded by Francis Bacon, Lord Verulam, Viscount St. Albans,

England's high Chancellor, the destined heir,  
In his soft cradle, to his father's chair :

the renowned statesman, the accomplished lawyer, who was to philosophy at once her lawgiver and her prophet—

Son to the grave, wise keeper of the seal,  
Fame and foundation of the English weal.

—Ben Jonson.

It is sad that this great man can be considered in this place only as having by his fate offered a melancholy warning against the delusions of worldly ambition. No one had formed juster views of his high duties than Lord Bacon. "My part is," said he "to acquit the king's office towards God, in the maintenance of the prerogative, and to oblige the hearts of the people to him by the administration of justice." To a certain extent he discharged these duties to the advantage of his master and the kingdom. Writing to Buckingham, he says, "This day I have made even with the business of the kingdom for common justice; not one cause unheard; the lawyers drawn dry of all the motions they were to make; not one petition unanswered. And this, I think, could not be said in our age before."

Perhaps Bacon has been underrated as a lawyer. In his early life he was anxious to obtain some small post as a maintenance to save himself from the necessity of making law his bread-winner. It was only upon his disappointment in this he applied himself to law. "However," says his chaplain, Dr. Rawley, "notwithstanding he professed it for his livelihood and subsistence, yet his heart and affection were more carried after the affairs and places of state.

\* Of Lord Ellesmere, Lord Bacon relates the following anecdote. "My Lord Chancellor Ellesmere, when he had read a petition which he disliked, would say, 'What, you would have my hand to this now?' And the party answering 'Yes;' he would say farther, 'Well, so you shall; nay, you shall have both my hands to it,' and so would, with both his hands, tear it in pieces."



He applied himself more through necessity than choice to the study of the common law, in which he attained to great excellence, though he made that (as himself said) but as an accessory, and not as a principal study." Elizabeth did not estimate his legal attainments very highly. She said of him, "Bacon has a great wit, and much learning; but that in law he could show to the uttermost of his knowledge, and was not deep." Of Bacon's conduct as a Chancellor we know little, except that he was not free from the judicial vices of his times—that corruption and favouritism deformed his character, as well as that of many others who have sat on the bench and the woolsack.

James having resolved that the highest office in the realm, the Chancellorship, should be no longer filled by a lawyer, the Great Seal, after Lord Bacon's disgrace, was, for a short time, put into commission, and then given, with the title of Lord-Keeper, to Dr. John Williams,\* dean of Westminster, who had been chaplain to Lord Ellesmere. Dr. Hacket (the Lord-Keeper's biographer) supposes that Williams was appointed from an affectation of power common among kings. Williams is said to have been an incorrupt judge, and to have shunned the rock on which his great predecessor wrecked his reputation. In evidence of which the following anecdote has been related:—His lordship being retired to Nonesuch, in the summer, took the air in the great park, and viewing from one of the hills the little village of Malden, he espied a church newly built, and asked at whose charge it was done. Mr. G. Minors, that attended him, told him who was the greatest benefactor. 'And he hath now a suit depending in Chancery?' says the keeper. 'The same,' says the other. 'And the same,' says the keeper, 'shall not fare the worse for build-

\* Williams was a sharp-witted politician. When the storm was first raised about monopolies and corruptions in government in James's reign, and the Duke of Buckingham was threatened with impeachment, Williams advised the king to sacrifice the Chancellor (Lord Bacon) and all the meaner offenders, and to make ample promises of redress. This advice the king received with gratitude, and ever afterwards regarded Williams with favour. In 1644, after Williams' fall, Charles I. sent for him to Oxford, to consult him on his affairs. The advice which he gave, proved his sagacity and foresight had not diminished with years. "*Cromwell*," he said, "is the most dangerous enemy your Majesty has; for though he is at this time of mean rank and size, yet he will climb higher. My humble motion to your Majesty, therefore, is that either you would win him to you by promises of fair treatment, or catch him by some stratagem and cut him short."

ing of churches.' Which, being related by Mr. Minors to his neighbour, the gentleman, the next morning, sent a taste of the fruits of his orchard, and of the poultry in his yard, to Nonesuch House. 'Nay, carry them back, George,' says the keeper, 'and tell your friend he shall not fare the better for sending of presents.'"

Bulstrode Whitelock, a Commissioner of the Great Seal during the Commonwealth, was one of the ablest and honestest lawyers of his time. He was the son of Judge Whitelock, of whom Charles I. gave the character of having been "a stout, wise, and learned man," and who was also much respected by Hampden, and the popular party of that time. His appointment was not worth more than £1500 a-year, and his private practice had brought him nearly £2000 a-year, so that he gained nothing except rank and title from his elevation. He was opposed to the violent measures adopted by the popular party; and although he drew up the ordinance for abolishing the House of Lords, expressed himself opposed to the change. Against the proposal of bringing the King to trial he spoke long and earnestly in the Commons; and when he found his opposition fruitless, withdrew, with his fellow-Commissioner, Sir Thomas Widdrington, to his house in the country. After the execution of Charles, the Commons commanded the Great Seal to be broken, and a new one made, and they nominated Widdrington and Whitelock to be again Lords Commissioners. Widdrington refused the honour first, "upon plea of his unhealthfulness;" and then, finding the house would not accept of this plea, on the ground of conscientious scruples. Whitelock, however, agreed to accept it, for the reason that "he was very deeply engaged with this party," and, "that the business to be undertaken by him was the execution of law and justice, without which men could not live one by another; a thing of absolute necessity to be done." Whitelock, however, soon fell into discredit with the Protector, chiefly through his "non-compliance with his pleasure in some things, and particularly in some Chancery causes;" and not long afterwards his commission was superseded by a vote of the house, for taking away the Court of Chancery. Whitelock was for a short time Lord-Keeper to Richard the Protector, and had the Great Seal afterwards intrusted to him as a member of the Committee of Safety. He was a facile politician, ready to yield allegiance to any government that was in existence. He was not unaptly designated the "temporising statesman;" and it was because this designation was apt that he was able, after having taken so prominent a part in the usurping government, to retain his life and property on the

**Restoration.** It is said that he waited upon Charles II. shortly after his arrival, and intreated his pardon for the offences he had committed against him. Charles bade him hold his tongue, and go home and take care of his *thirty children*. Lord Clarendon said, both of him and Serjeant Maynard, that although "they bowed their knees to Baal, and so swerved from their allegiance, it was with less rancour and malice than other men; they never led, but followed; and were rather carried away with the torrent, than swam with the stream; and failed through those infirmities, which less than a general defection and prosperous rebellion could never have discovered."

Of the life of Lord-Keeper Finch, afterwards Earl of Nottingham, and Chancellor, little is known. During the Great Rebellion he was eminent at once for his attachment to the royal cause and for his legal attainments, both which obtained for him, at the Restoration, the favour of the king and the Chancellor, Clarendon. Through the interest of the latter he was made Solicitor-General, and knighted. At the bar he rose rapidly into great distinction: so eloquent a pleader did he prove himself, that he was called "the silver-tongued counsel." He was soon made Attorney-General, and, on Lord Shaftesbury's dismissal, Lord-Keeper; a title he afterwards exchanged for that of Lord Chancellor. The Duke of Wharton said of him:—"His decrees were pronounced with the greatest solemnity and gravity; no man's were ever in higher esteem, had more weight, or carry greater authority at this very day, than his do. He frequently declared that he sat there to do justice; and as long as his Majesty was pleased to continue him on that seat, he would do it, by the help of God, impartially to all. His reprimands were mixed with sweetness and severity, and so pointed as to correct, not confound the counsel. There may," he adds, "have been persons of more extensive knowledge and greater capacities, but as to the duty and faithful discharge of the office, his lordship never had a superior. To figure this great and inestimable man," he observes in conclusion, "aright, and to paint him in his true colours, and with some warmth of imagination, but still with the greatest submission to strict justice, I would seat him on his throne, with a ray of glory about his head, his ermine without spot or blemish, his balance in his right hand, Mercy on his left, splendour and brightness at his feet, and his tongue dispensing truth, goodness, virtue, and justice to mankind." His attention to the business of his court was unremitting. He was once applied to to re-hear a case which had been for thirty years in Chancery. Directly he heard of this he appointed a day for re-hearing,

declaring that he would rather sit five or six days together, than suffer such a reproach to continue. He was a zealous churchman, and even Burnet acknowledges "that he took great care of filling the church livings that belonged to the Seal with worthy men; and he obliged them all to residence." He wrote to his chaplain:—"The greatest difficulty, I apprehend, in my office, is the patronage of ecclesiastical preferments. God is my witness, that I would not knowingly prefer an unworthy person; but as my course of life and studies has lain another way, I cannot think myself so good a judge of the merits of such suitors as you are; I therefore charge it upon your conscience, as you will answer to Almighty God, that upon every such occasion you make the best inquiry, and give me the best advice you can, that I may never bestow any favour upon an undeserving man; which if you neglect to do, the guilt will be entirely yours, and I shall deliver my own soul."

Lord Jeffreys, whose name has been handed down to the execration of posterity as a cruel and remorseless tyrant, began his career as an advocate at the age of eighteen, two years before he was called to the bar. The plague had thinned the lawyers, and frightened the remnant it spared. Jeffreys' first field of practice was the courts at Guildhall and Hicks's hall, and others of a like kind, where his bold and confident bearing stood him in good stead. A satirist has said, in allusion to his manner—

"Oft with success this mighty blast did bawl,  
Where loudest lungs and biggest words win all."

He, however, soon succeeded in establishing himself, and, by the interest of two aldermen, who were his namesakes, but noways related to him, obtained the appointment, first, of Common Serjeant, then of Recorder to the city of London. This latter office he was compelled to resign by the country party, to whom he became obnoxious, as well for his joining the High Church party, as for his ready concurrence in all the designs of the court. In the Popish Plot, and in the various Government prosecutions in those times, Jeffreys was constantly employed, and acquitted himself so much to the satisfaction of the court, that, on the death of Sir Edmund Saunders, he was made Chief Justice of the King's Bench. He proved himself in this capacity the willing instrument of royal vengeance. It has been well said of him, that "so as he rode on horseback, he cared not whom he rode over." His conduct to Algernon Sydney at his trial, the inhumanity with which he acted towards the deluded victims of the unhappy Monmouth, are well known. They, however, formed his best recommendation to favour

in the eyes of James, who accordingly made him Chancellor. In this capacity he was enabled to serve his master still more effectually; but the arrival of the Prince of Orange,\* and the flight of the king, soon terminated the career of his insolence. He died in the Tower after a short confinement, whether of a broken heart, or of disease, or, as some have said, of drinking, has not been clearly ascertained. Burnet says of him that he "was scandalously vicious, and was drunk every day, besides a drunkenness of fury in his temper that looked like enthusiasm." Bevil Higgons, a favourable witness, observes, that if he "exceeded the bounds of temperance now and then, it does not follow that he was drunk *on the bench and in council!*" Roger North says he used to drink and talk with "good fellows and humourists;" and so he would unbend himself in "drinking, laughing, singing, kissing, and every extravagance of the bottle." When he was judge, an old man with a large beard was examined before him. His evidence displeasing Jeffreys, he said—"If your conscience is as large as your beard, you'll swear anything." The old man replied—"My lord, if your lordship measures consciences by beards, your lordship has none at all."

Sir John Reresby says that he once dined with Jeffreys, the Lord Mayor and several other gentlemen being of the party. Jeffreys, according to his usual custom, drank deep at dinner, and after the cloth was cleared, sent for one of his servants, who had been a comedian, and was famous for his powers of mimicry, to divert the company. This man feigned to plead before Jeffreys, imitating the gesture, tone, deportment of all the great lawyers of his age, in so perfect a manner as exceedingly delighted the Chancellor. On one occasion he was like to have been carried off by an attack of illness which was produced by an over-indulgence in wine. It is said that so much elated was he and the Lord Treasurer, that they took off the greater part of their clothes, and had not they been accidentally prevented, would have climbed up a sign-post to drink the King's health.

Of Lord Somers, Horace Walpole has said that "he was one of those divine men who, like a chapel in a palace, remain unprofaned, while all the rest is tyranny, corruption, and folly. All the traditional accounts of him, the historians of the last age and its best authors, represent him as the most incorrupt lawyer and the honestest statesman, as a master orator, a genius of the finest taste, and a patriot of the noblest and most extensive views; as a man

\* It appears that a patent was made out shortly before the king's flight, creating Jeffreys Earl of *Flint*.

who dispensed blessings by his life, and planned them for posterity."

He was the son of a Worcester attorney, whose zeal for the popular cause induced him to bear arms under Cromwell. The youth of the future Chancellor did not want auguries of future eminence. It is affirmed that when a child, walking with his aunt, a beautiful roost-cock flew upon his head, and crowed three times with peculiar energy. This tradition has better evidence in its favour than similar stories, but we will not undertake to vouch for its authenticity. After completing his education, he entered at the Middle Temple, and was fortunate enough to attract the notice and receive the patronage of the Solicitor-General, Sir Francis Winnington. It is said he held the situation of clerk to Winnington, and thus had an opportunity of acquiring a practical knowledge of the law.

Previous to his call to the bar, his steadiness and attention excited the pride of his father. The old man used frequently to visit London in term time, and always put up his horse at the George Inn, at Acton, where he often mentioned his promising son at the Temple. One day, the landlord hearing him dwell with such heartfelt pride on the merits of his son, said to him, "Why don't you let us see him, sir?" Accordingly, when Mr. Somers returned, he begged his son to accompany him on his way as far as Acton. Having arrived at the inn, the father took the landlord aside, and said to him, "I have brought him, Cobbet, but you must not talk to him as you do to me; he will not suffer such a fellow as you in his company."

After he was called to the bar, Somers was much employed by the Whig party, whose principles he had supported by his pen. The first great cause in which he was engaged was the trial of the Seven Bishops, in which he was of counsel for the defence, together with others, "all of them," says Lord Camden, "lovers of liberty, and the greatest lawyers of the age." The Bishops, amongst themselves, objected to Mr. Somers as too young and obscure a man; but Mr. Pollexfen, who was afterwards Lord Chief Justice, insisted upon his great abilities, and declared that he himself would take no share in the defence if Mr. Somers were not associated with him. He represented to the Bishops that Somers would take the most pains, and that his knowledge of precedents and records\* would be of great service. After the Revolution, in which event

\* "I have heard," says Addison, probably referring to Lord Somers, "one of the greatest geniuses this age has produced, who had been trained up in all the polite studies of antiquity, assure

Somers played a considerable part, he was made Solicitor-General, afterwards Attorney-General, and thence advanced to the post of Lord-Keeper. The exceeding gentleness of his manners, it has been said, disqualified him for this high dignity. It would be well for men could their enemies object nothing else to their competency.

During the seven years he held the Great Seal not a single imputation of corruption or partiality was advanced against him. Dr. Garth, no friend to lawyers in general, in one of the earlier editions of his "Dispensary," bears testimony to the merits of his judicial character. He says,

"Somers doth sick'ning equity restore,  
And helpless orphans now need weep no more."

His fall was owing to a political intrigue.\*

Lord Cowper was distinguished in his early life rather for the licentiousness of his conduct, than for any promise of the future eminence to which he afterwards attained. While very young, he was engaged in an illicit connexion with a Miss Ailing, the owner of Hertingfordbury Park, near Hertford, by whom he had three children. A rumour, that he had deceived her with an informal marriage, induced Swift to fasten on him the nick-name of "Will Bigamy." He was reluctantly appointed by Anne Lord-Keeper of the Great Seal; but when Harley and the Tories succeeded in subverting the influence of the Whigs, in 1710, every effort was made to retain Cowper: he, however, waited on the Queen, and surrendered to her the Seals. She entreated him to consider before he determined on retiring, and declared herself surprised at his wish. Three times she returned the Seals into his hands; he laid them down, and at length laid her commands on him, to take them up again, adding, "I beg it, as a favour—if I may do such a thing." Cowper of course could refuse her request no longer, and after a little conversation, said that he would accept them for the present,

me, upon his being obliged to search into several rolls and records, that, notwithstanding such an employment was, at first, very dry and irksome to him, he at last took an incredible pleasure in it, and preferred it even to the reading of Virgil and Cicero."

\* In early life Lord Somers wrote some verses which got abroad without the author's name becoming known. Another person, a modern Bathylus, declared that he had written them. This person being introduced to Somers, after he was Chancellor, he asked him if he had written a certain paper of verses. "Yes, my lord," was the reply, "'tis a trifle, I did it off-hand." On which the Chancellor laughed so heartily, that the would-be poet, suspecting himself discovered, withdrew in confusion.

on condition he might resign them the next day; on the next day, accordingly, he again waited on her Majesty, who received from him the insignia of his office.

Of him Charles Yorke related this anecdote. Richard Cromwell was party to some proceedings in the Court of Chancery, and the counsel on the opposite side made very free with his name, not sparing allusions to that "arch traitor," old Noll. This hurt Lord Cowper's feelings, who knew that Cromwell must be in court. In order to check the counsel he looked round and said, "Is Mr. Cromwell in court?" Upon this Cromwell was pointed out to him, and he immediately said, "Mr. Cromwell, I fear you are incommodiously placed where you are. Pray come up and take a seat on the bench beside me." Of course, no more was heard about "old Noll." Bulstrode Whitelock (son of the Lord Commissioner), who was then at the bar, observed to Yorke (afterwards Lord Hardwicke), when he saw Cromwell seating himself beside the Chancellor—"This day, so many years, I saw my father carry the Great Seal through Westminster Hall before that man."

Philip Yorke, Lord Chancellor Hardwicke, was the son of a Dover attorney, and at an early age was placed with Mr. Salkeld, an attorney in Brook-street, Holborn, who could boast that he had, within a short time of one another, in his office, Yorke, afterwards Lord Chancellor of England; Jocelyn, afterwards Lord Chancellor of Ireland; Parker, afterwards Chief Baron of the Exchequer; and Strange, afterwards Master of the Rolls. Salkeld was a man of considerable knowledge and talent, and Yorke derived much advantage from his instruction. By his advice, Yorke entered himself at the Middle Temple, and shortly afterwards attracted the notice of Lord Macclesfield, who became so much attached to him, and distinguished him so much, that soon after his call he obtained a large practice. The seniors at the bar were astonished at his rapid progress. Judge Powis, a worthy dignitary, whose intellectual powers were not esteemed very bright, dining in his company one day, endeavoured to obtain a solution of the mystery of his success. He began with a bold conjecture. "Mr. Yorke," said he, "there is scarcely a case before the court in which you do not hold a brief for the plaintiff or the defendant; from which I conceive that you must either have published some important book, or are on the eve of publishing one." Yorke's ready wit did not desert him; he gravely replied that his lordship's conjecture was well-founded—he had such an intention. "Indeed, Mr. Yorke?" rejoined the judge, "and may I be permitted to inquire the subject?" "Most certainly, my lord," returned Yorke, "I



propose to publish a poetical version of Coke upon Littleton." Upon this, the judge requested him to recite a specimen, from which Yorke begged to be excused; but Powis would take no denial, and Yorke, trusting to his invention, recited, with grave emphasis—

"He that holdeth his lands in fee,  
Need neither to shake nor to shiver,  
I humbly conceive, for look, do you see,  
They are his and his heirs for ever."\*

Five years after he had been called, and before he had completed his first circuit, Yorke was made Solicitor-General, to the astonishment and indignation of the whole bar. His learning and amenity of manners, however, soon reconciled them to his appointment, and he passed through that and the office of Attorney-General with universal applause and admiration. Whilst filling the latter office, the Chancellorship and Chief-Justiceship of the King's Bench both became vacant. Sir Robert Walpole, who wished that Talbot, the Solicitor-General, should be Chancellor, had some difficulty in inducing Yorke to waive what he considered his just claim to that dignity. However, avarice was Yorke's ruling passion, and his ambitious pretensions were readily resigned, when he was promised that, if he would accept the Chief-Justiceship, the salary should be raised from 2000*l.* to 4000*l.* a-year, and that he should also be elevated to the peerage. After having bargained that the offered increase of salary should not be made personal to himself, but continued to his successors, Yorke acceded to the terms, and was appointed Chief-Justice, and created Baron Hardwicke.

\* As late as Burrowes' "Reports," do we find legal "truths severe" drest in the "fairy" garb of verse. The case is that of the parish of Shadwell *versus* the parish of St. John's, Wapping—

"A woman having a settlement  
Married a man with none;  
The question was—he being dead,  
If that she had was gone.

Quoth Sir John Pratt, her settlement  
Suspended did remain,  
Living the husband—but him dead,  
It doth revive again."

CHORUS OF PUISNE JUDGES.

"Living the husband—but him dead,  
It doth revive again."

For three years and a half Lord Hardwicke presided with honour to himself and advantage to his country in the Court of King's Bench, and showed much unwillingness to relinquish his post for the Great Seal, when it was pressed on his acceptance by Sir Robert Walpole. His reluctance was finally overcome by the following expedient. "Well, my lord," said Walpole, when Lord Hardwicke declined to accept an office whose tenure was so precarious, "if you persist in declining the Great Seal, I have resolved on another as Chancellor. The office shall forthwith be offered to Mr. Fazakerly," an eminent Chancery barrister of the day. "Fazakerly!" exclaimed Lord Hardwicke, his jealousy alarmed, "Fazakerly! Are you aware, Sir Robert, that Mr. Fazakerly is an avowed Tory, and, for aught I know, a confirmed Jacobite?" "Likely enough," replied Walpole coolly, "but (laying his watch on the table) if by one o'clock you have not accepted my offer, by two Fazakerly shall be Lord-Keeper of the Great Seal, and one of the staunchest Whigs in England!" This at once decided Lord Hardwicke, and the minister gained his point. It is a remarkable thing that after he had taken his seat in the Court of Chancery for the first time, he went into the King's Bench and delivered judgment in a case that had previously been argued before him, thus presenting the singular spectacle of one individual presiding in the two principal courts of law and equity on the same day. It has been understood that shortly before his retirement from the woolsack Lord Hardwicke decided the cause in which he held his first brief.

Avarice was his predominant passion. It was in this way that he got the name of "Judge Gripus." He was one of a commission which, in the year 1740, reported in favour of some very extensive reforms in the Court of Chancery; but although he concurred in this report, and possessed the ability of carrying the recommendations which it embodied into effect, he made no effort towards such an end, preferring the continuance of abuses to any change which would reduce his income, or diminish his patronage. "My lord," George II. one day said to him, "I observe that there never is a place vacant but you have some friend on whom you wish it to be bestowed."

He was fortunate in a wife\* in whose estimation frugality

\* Against Lady Hardwicke the Chancellor himself used to tell a ludicrous story. His bailiff, Woodcock, having been ordered by her ladyship to procure a sow of a certain breed and dimension, came one day into the dining-room, when full of people of consequence and distinction, and in a tone of exultation, he exclaimed,

was the first of virtues. By ancient custom, the embroidered purse which holds the Great Seal is annually renewed; and the old purse becomes the perquisite of an officer of the court. Lady Hardwicke, however, insisted that it should always be given up to her, and actually lined the walls of one of the state-rooms at Wimpole with the velvet she obtained in this way. By her desire, Lord Hardwicke deferred his acceptance of an earldom for many years after the offer was made him; until, in short, the marriage of his daughters; for, as Lady Hardwicke observed, though no suitors would expect more than 10,000*l.* with the Misses Yorke, yet not less than 20,000*l.* would be expected with Lady Elizabeth and Lady Margaret.

His contemporaries have recorded that, though somewhat ostentatious, and in no ways extravagantly hospitable, Lord Hardwicke was agreeable in his manners, lively in his conversation, and temperate in his habits. When Attorney-General, he was dining in company with Lord Bolingbroke, who asked him if he had not been a rake in his younger days—to which he replied, that “he must confess that he never was a rake; for that, indeed, he was so early immersed in business that he never had any time to be one.” Lord Bolingbroke on this professed himself satisfied with the explanation—“For I am persuaded,” he said, “that no one could ever distinguish himself, and make his way in life as you, Sir Philip, have done, unless he had been a rake, or, at least had had the seeds of a rake in him.”

Lord Hardwicke, as a politician, was timorous. He was always haunted with the horrors of invasion from France, in flat-bottomed boats; but, with all his failings, was, if not a great man, at least a great lawyer.

Earl Camden was remarkable rather for the boldness and firmness that distinguished his conduct, when seated on the bench of the Common Pleas than for anything which characterized him during the four years in which he held the Great Seal. His conduct in reference to Wilkes is well known. Wilkes, who had been arrested by a general warrant under

“Oh, my lady, I have been to Royston Fair, and have got a sow exactly of your ladyship’s size!” Her ladyship one day sent for Aaron Franks, the celebrated diamond merchant, and, when he arrived, received him in a very confidential manner. “Mr. Franks,” she said, “I want to make my daughter, Lady Anson, a present of a jewel; something about 2000*l.*” That was soon arranged, and then came the real business. “And can you,” said she, “tell me of any good match for one of my sons? But, Franks,” she continued eagerly, “she must be rich—she must be rich, Mr. Franks, or it would not do.”

the hand of the Secretary of State, was brought up before him by *habeas corpus*. Camden (then Sir John Pratt) desired him immediately to be discharged, and, when Wilkes afterwards brought an action against the messenger by whom he had been arrested, took occasion to declare his opinion that general warrants—except in cases of high treason—were illegal, oppressive, and unconstitutional. The popularity which he acquired by this act was excessive, nor was it materially, or at least permanently, diminished, when he, as Lord Chancellor, supported the ministers in laying an embargo, by Order in Council, on the exportation of wheat, in contravention of the existing law.

During the time he was Chief Justice he visited Lord Dacre, at his seat in Essex. One day, accompanied by a gentleman remarkable for absence of mind, he took a walk, in the course of which he ascended a hill near the house, at the top of which stood the parish stocks. After sitting down near them for some little time, the Chief Justice expressed a wish to know of what kind the punishment was, and begged his companion to open the stocks and let him try. This was accordingly done, and the gentleman, taking a book from his pocket, sauntered on, and not until he had returned to Lord Dacre's did he recollect that he had left the Chief-Justice in so awkward a situation. When the learned judge was tired, he tried to get out, but found he could not release himself; he asked a countryman, who was passing by, to let him out: the rustic stopped, looked at him, grinned, and shaking his head, walked on, saying, "No! no! old gentleman, you wasn't set there for nothing." Some servants, sent from Lord Dacre's, soon after this rescued him from his novel situation. Sometime afterwards he presided in the trial of an action for false imprisonment, brought against a magistrate, by some fellow whom he had set in the stocks. The counsel for the defendant ridiculed the charge, declaring that everybody knew setting in the stocks was no punishment at all. The Chief Justice rose, and stooping over, said to the counsel, in a loud whisper—"Were you ever in the stocks?" "Really, my lord, never." "Then I have," said the Chief-Justice, "and can assure you that it is no trifle." Lord Camden, like his great rival, Lord Mansfield, was very intimate with Garrick. One day Garrick, meeting Boswell in the street, thus addressed him—"Pray now, did you—did you meet a little lawyer turning the corner, eh?" "No, sir," replied Boswell; "pray what do you mean by the question?" "Why," returned Garrick, affecting indifference, "Lord Camden has this moment left me." When Boswell mentioned this to Johnson, the great moralist said, "Well, sir, Garrick talked very properly; Lord Camden

was a little lawyer to be associating so familiarly with a player!"

Lord Chancellor Bathurst, son of the Lord Bathurst with whom Pope and Swift were so intimate, after having been a judge of the Court of Common Pleas, succeeded Charles Yorke as one of the three Commissioners of the Great Seal. A year afterwards he became Lord Chancellor, and was created Baron Apsley. "What the three could not do," sarcastically observed Sir Fletcher Norton, "was given to the most incapable of the three." His incapacity as a lawyer soon became evident. Somebody told Wilkes, before he was elected Lord Mayor, that Lord Apsley would have to inform him that the king did not approve of the city's choice. "Then," he replied, "I shall signify to his lordship that I am at least as fit to be Lord Mayor as he to be Lord Chancellor" — and Wilkes was not far wrong. Bathurst, it is said, was conscious of his inefficiency. For the two years and a half that he and Lord Weymouth sat together in the cabinet, the latter used always to decide the law questions that came before them in their ministerial capacity. His father, who was a jovial old gentleman, and died four years after his son became Chancellor, had once a large party staying with him at Oakley. One evening their conviviality having been long protracted, the Chancellor, after dwelling at some length on the importance of early hours to health and longevity, was allowed to retire. When he had gone, his father exclaimed, "Now, my good friends, since the *old* gentleman is off, I think we may venture to crack another bottle." The Chancellor himself, however, was exceedingly cheerful and good-humoured, and possessed of a lively wit. In one session of Parliament there was an unusual number of bills sent up from the Commons in a state so imperfect as that they were obliged to be amended in the Lords. One was brought in by Mr. Gilbert, famous for his activity in establishing and improving Houses of Correction. The Chancellor said to him, smiling, when he brought his bill up to the Lords, "You have been a long time, Mr. Gilbert, wishing for a good *House of Correction*, and I now congratulate you on having found one; for this House has been nothing but a house of correction for the errors and mistakes of your House the whole session!"

For thirteen years Wedderburne, Lord Loughborough, filled the post of Chief Justice of the Common Pleas. As a judge he is said to have displayed much knowledge of the law, and an affable and courteous demeanour to counsel and juries. He was mild in his administration of justice, whilst he vigorously resisted every attempt to relax the rigour of criminal jurisprudence. During the debate on the re

form of the criminal laws, in 1811, the following statement was made, illustrative at once of the humanity of Lord Loughborough, and the impolicy of the then state of the law. Not a great many years ago, on the Norfolk circuit, a larceny was committed by two men in a poultry-yard, but only one of them was apprehended. This man was tried at the next assizes, found guilty, and sentenced by Lord Loughborough to *a few months' imprisonment*. When the accomplice heard of this, he surrendered, and was tried the following assizes. Unfortunately for him, the presiding judge was Mr. Justice Gould, who had observed or fancied that a man who sets out with stealing fowls, generally ends in committing atrocious crimes—as a consequence, he sentenced the criminal to *transportation*.

Sir John Sinclair, in allusion to Lord Loughborough, says—It is well known how closely he was connected with the Duke of Portland. The Marquis of Titchfield, the duke's son, married Miss Scott, the eldest daughter and joint heiress of General Scott. Besides the immense property left by her father, he had likewise a claim by the death of her relation, Sir Robert Gordon, to a valuable estate in the county of Moray. The fifth claimant was Mr. Cumming, of Altyr, and in the litigation before the Court of Session a decision was given in his favour. There was an appeal to the Lords, when Lord Loughborough sat on the woolsack. Knowing that under the particular circumstances of the case the eye of the public would be upon him, he earnestly requested Lord Thurlow's assistance in deciding the question. It is singular that Lord Thurlow's opinion was favourable to Lord and Lady Titchfield; whereas Lord Loughborough thought the decision should be in favour of Cumming. Had he chosen to acquiesce in the opinion given by Lord Thurlow in favour of the Titchfield family a large property would have devolved on the son of his friend; but, greatly to his credit, he decided in favour of Mr. Cumming.

In his political character, Lord Loughborough is not entitled to much respect.\* Attached at one part of his life to

\* Churchill has severely lashed him, for his pliant temperament, in one of his satires.

“To mischief train'd, e'en from his mother's womb,  
Grown old in fraud, though yet in manhood's bloom;  
Adopting arts by which gay villains rise,  
And reach the heights which honest men despise;  
Mute at the bar, and in the senate loud,  
Dull 'mongst the dullest, proudest of the proud;  
A pert, prim prater of the northern race,  
Guilt in his heart and famine in his face,  
Stept forth——.”

the Foxite party, he deserted them at the precise moment when his desertion obtained for him the Great Seal. Whilst, however, in their ranks he did not do them much service in advising the ill-omened coalition, and still less in inducing Mr. Fox to make the unfortunate declaration which he did respecting the prince's right to the government, on the agitation of the Regency question in 1789.

In the disposition of his church patronage he showed great judgment. His demeanour towards the numerous applicants by whom he was constantly assailed is said to have been marked with kindness and urbanity. When he gave away a living to one whose merits constituted his only recommendation, he would say to him, "Go to my secretary and desire him to prepare the presentation for my fiat immediately, or I shall have some duke or great man making application, whom I shall not be able to refuse."

Lord Erskine, to whose transcendant merits as an advocate we have already paid tribute, owed both his title and official dignity to his faithful attachment to Mr. Fox during the critical period of the French Revolution. To the King Erskine was personally obnoxious from his having undertaken the defence of Tom Paine. When the arrangements for the "Talents" administration were in the course of settlement, Fox submitted to the King a list of such persons as his party considered eligible for the Chancellorship. At the head of this list was Erskine's name, placed there not under any expectation that the King would consent to his appointment, but merely as a mark of esteem and regard. The King, however, did not make the anticipated objection. He merely observed, "Well, if Mr. Erskine must be Chancellor, remember he is *your* Chancellor, and not mine;" and Mr. Erskine accordingly became Chancellor, much to his own astonishment and that of his friends. The surprise which they manifested arose simply from the knowledge of how much he was disliked by the King.\*

Of his judicial character the best that can be said is, that he displayed a readiness and tact which enabled him to get through business very rapidly, which is precisely the sort

\* When Lord Erskine was at the bar, a case was laid before him on which he declined to give an opinion, alleging it involved a question of equity law of which he had no proper knowledge. In a month afterwards he was Chancellor. When William III. pressed the Great Seal upon Holt, the Judge replied, "May it please your Majesty, I never had but one Chancery suit in my life, and that I lost. I am unfit."

of merit that a *nisi prius* advocate raised to the woolsack might be expected to show. From the bar he received every possible assistance, and his conduct towards them was marked with the urbanity natural to his character. Lord Eldon said of him—and the testimony is honourable to both parties—that none could have a greater wish to discharge properly the duties of his office, nor greater abilities to qualify him for their due discharge. Of his personal character the most prominent feature was his intense vanity and egotism. "Lord Erskine," says Lord Byron, "was the most brilliant person imaginable: quick, vivacious, and sparkling, he spoke so well that I never felt tired of listening to him, even when he abandoned himself to the subject of which all his dear friends and acquaintances expressed themselves so much fatigued—self. His egotism was remarkable, but there was a *bonhomme* in it that showed he had a better opinion of mankind than they deserved. Erskine had been a great man, and he knew it." Egotism, in such a man, is pardonable; but it is a sin to which pardon is rarely accorded. Most men are too egotistic to endure an egotist. From Buonaparte, "Counsellor Ego," as Erskine was denominated in the caricatures of the day, received a severe mortification. After the peace of Amiens he visited Paris, and one day attended the First Consul's levee, in company with Mr. Fox, Lord Holland, Lord Egremont, and other distinguished countrymen. Not unnaturally he expected that, when presented, Buonaparte would pay him some compliment in reference to his forensic abilities or his eloquence. The master of the ceremonies announced him to the Consul as *Mons. le Chevalier Ayreshine*. Buonaparte slightly looked at him—took a pinch of snuff—"Ayreshine, Ayreshine!" he said, "*Etes vous légiste?*" Erskine bowed, and fell back into the circle.\*

By nature he was quick and vivacious, overflowing with good humour, and generally in the highest spirits. One day dining with Sir Ralph Payne (afterwards Lord Lavington), he was seized with sudden illness, and forced to retire until the cloth was cleared. On his return Lady Paynet anxiously inquired of him how he felt. He immediately took up a pencil and scribbled this couplet—

\* Lord Abinger says that Buonaparte asked Erskine whether he had ever been Lord Mayor of London! He is said to have put the same question to Mr. Fox.

† This lady had a monkey whom she did like, and a husband whom she did not. Unfortunately the husband survived the monkey. The day after the death of Ned (such was the monkey's name), Sheridan entered her ladyship's drawing-room, and found



“’Tis true I am ill, but I cannot complain,  
For he never knew *Pleasure* who never knew *Pain*.”

Mr. Justice Ashurst was remarkable for his lank and sallow physiognomy, on him Erskine indited the couplet—

“Judge Ashurst, with his *lanthorn* jaws,  
Throws *light* upon the English laws.”

He was a frequent visitor at Mr. Tooke's villa, at Wimbledon. Once, while walking in the garden with the party assembled there, and chattering in his usual agreeable strain, he astonished them by exhibiting his agility in suddenly springing over the ha-ha, to talk to Mr. Pitt and some of the ministers, who were walking in the adjoining grounds of Mr. Dundas. Mr. Espinasse was conversing in court with Erskine and a Mr. Lamb, when Erskine remarked how much habit and the practice of speaking gave a man confidence in addressing the court. “I protest I don't find it so,” said Mr. Lamb, “for though I've been a good many years at the bar, and have had my share of business, I don't find my confidence increase; indeed, the contrary is rather my case.” “Why,” replied Erskine, “it's nothing wonderful that a *Lamb should grow sheepish*.” One night Erskine was coming out of the House of Commons when he was stopped by a member going in, who accosted him. “Who's up, Erskine?” “Windham,” was the reply. “What's he on?” “His legs.” Erskine was colonel of the volunteer corps called “The Law Association.” Some one wishing to quiz him, told him that his corps were much inferior to the Excise Volunteers, then notoriously the worst in London. “So they ought to be,” good-humouredly observed Erskine, “seeing that the excise people are all Cæsars (seizers).”

Boswell mentions meeting him in his youth at Sir Archibald Macdonald's. He describes him as “a young officer in the regimentals of the Scots Royals, who talked with a vivacity, fluency, and precision so uncommon that he attracted particular attention.” In the course of the conversation, Erskine boasted that when at Minorca he had not only read prayers, but preached two sermons to the

her in tears. “Oh! Mr. Sheridan, poor Ned's gone.” “Dear me!” says Sheridan, “let me write his epitaph,” which forthwith he did in these words:—

“Alas! poor Ned,  
My monkey's dead;  
I'd rather by half  
It had been Sir Ralph.”

regiment. It was, indeed, always a favourite boast of his, to have been a sailor, a soldier, a parson, and a lawyer.

He had a most singular penchant for witnessing fires, and has been known to leave the House of Commons in the midst of a debate on hearing that a conflagration was to be seen within a mile. Sheridan said that a chimney could not smoke in the Borough without Erskine's knowledge.

His regard for money was great. He invested a large fortune in transatlantic securities, anticipating the possibility of convulsions at home, and, considering this was done at the time of the French Revolutionary war, it speaks little for his patriotism; and, as the event showed, not more for his foresight. His disposition, however, was generous and liberal. During the time he was Chancellor he invited the gentleman by whom the following anecdote is related to breakfast with him. While they were conversing, a servant brought in a letter which Lord Erskine read with considerable emotion. After a pause, he said it was from one of the French princes, without naming which, and added that it was to solicit his assistance on the occasion of some embarrassment. He then remarked on the very extraordinary change which a few years had brought about in their respective fortunes. "The first time I saw the writer of this letter," he continued, "was at Versailles. I was then a poor ensign on my way to join my regiment, which was lying in Minorca. As I was travelling to Paris in a public vehicle, one of the passengers, who had some inferior situation in the palace, offered to procure me an opportunity of seeing the court, and there I beheld this prince figuring as one of the most distinguished men in Europe. I was then in the lowest rank of one profession, and am now at the head of another of a totally different nature, and he, in exile and poverty, is supplicating my aid."

His latter years were not marked with anything which deserves commemoration. It is understood they were clouded by misfortunes, aggravated by pecuniary difficulties. He applied himself to farming pursuits, but succeeded in this branch little better than he did as Chancellor. One day George Colman and Jack Bannister were dining with him. After dinner he told them with some pride, that he had three thousand head of sheep. "I see your lordship," exclaimed Colman, "has still an eye to the woolsack!" The late Earl of Leicester told a story of Erskine accompanying him in a ride through one of his farms. Coming to a finely-cultivated field of wheat, Erskine exclaimed in a delighted tone, "What a beautiful *piece of lavender*!" It was at Holkham that Sir John Sinclair met this eminent, amiable, though unfortunate man.

Sir John, a tolerably competent judge in such matters, says that Erskine knew nothing of agriculture: he once said to him, "I have formerly studied Coke at Westminster, and I am now studying Coke at Holkham; and Coke the agriculturist is as great in his way as Coke the lawyer in legal matters." It is to be feared that Erskine learnt little from either Coke.

Lord Rosslyn was in the habit of ridiculing the egotism which deformed Erskine's character, in a vein of good-humoured pleasantry. He used to say, in jest, that Erskine once addressed a public meeting in the following words, or to the like effect: "As to me, gentlemen, I trust I have some title to give my opinion freely. Would you know whence my title is derived? I challenge any man among you to inquire! If he ask my birth—its genealogy may rank with kings! If for my wealth—it is all for which I have time to hold out my hand! If my talents—no! of these, gentlemen, I leave you to judge for yourselves!"\*

The principal charge brought against that consummate lawyer, Lord Eldon, who presided in the Court of Chancery for nearly twenty-five years, was dilatoriness. From this charge Sir Charles Wetherell defended him. "He preferred dull truth to brilliant error—slow accuracy to expeditious ignorance. Some honourable gentlemen were not particular though 20,000*l* a-year should be given to the wrong party. A judge, who had formerly been condemned by some person for not running quickly through the criminal calendar, had answered the impatient railer by observing, that he so judged in the day as to be able to sleep on going to bed at night. So thought and acted Lord Eldon." Lord Erskine, speaking in the House of Lords, said, in reference to the Chancellor—"My noble and learned friend, with great good-nature and pleasantry frequently alludes to his supposed propensity for doubting, and I can account for that propensity more distinctly than it would be decent for him, in speaking of himself. No man, I believe, who has sat in the court where he presides ever brought to the public service a more consummate knowledge of all its principles and practice. Nobody could be better qualified to decide in that forum with rapidity, yet how often does he there pause and re-pause, consider and re-consider—and why? From the justest and most amiable of motives. He even runs the

\* Dr. Parr and Erskine were fond of bandying compliments amongst each other. Parr once told the latter that, if he survived him, he would write his epitaph. "You are wrong to say that, doctor," replied Erskine, "for you hold out to me an inducement to commit suicide!"

risk of sometimes appearing dilatory and undecided, rather than mistake the rights of the meanest individual, in the most inconsiderable concerns, whose interests are in his hands." Sir Samuel Romilly said—"If Lord Eldon has a fault, it is an over-anxiety to do justice." But still this over-anxiety to do justice sometimes in effect wrought injustice. The case of *Hare v. Horwood* has been often cited as an instance of this. It appears that the cause had been commenced twenty years before, and that the solicitor's charges for attendance alone amounted to upwards of 1400*l*. Sickened at the delay, which was positively ruinous to his client, Mr. Lowe, the solicitor, wrote to the Chancellor, stating that the cause had been for seven years awaiting his lordship's judgment—that upwards of twenty-two years previously it had reached the top of the paper, where he himself had requested it might remain until he could decide it—adding that he felt it a painful duty to apprise his lordship that *the infant for whose benefit the suit was instituted had died of a broken heart on account of being kept out of his property*. This was a bold ruse, but it succeeded. Instead of being denounced in open court for his audacity, in venturing privately to solicit a judge, Mr. Lowe was sent for to the Chancellor's private room,—the result of the interview may be learnt from an item in the bill of costs—"To attendance on his lordship in his private room—*when his lordship begged for further indulgence till to-morrow!*" The decision was given as promised. The death of the infant broken-hearted, which it would seem conduced to the production of this result, was a mere invention of the solicitor. In another case Lord Eldon promised he would give judgment in a few days. The parties dying, the solicitor of the representatives, three years afterwards, addressed a note to the Chancellor, earnestly intreating him to deliver judgment. What did Lord Eldon do? Commit the solicitor to the Fleet, or reprimand him with severity? Nothing of the kind. He addressed him a letter, stating that the papers had been taken from him—that he had supposed the matter had been arranged, but that he would, as soon as he recovered the papers, dispose of the case—and concluded with "Yours, with much respect, ELDON."

Once, after the arguments at the bar were concluded, Lord Eldon spoke for nearly two hours, and was listened to with the greatest admiration by all present. He concluded with saying that he would take the papers home, read them through with care, and give judgment another day. After he had done, Romilly rose from his seat, and turning round, said to the counsel behind him,—“Now, is not this extraordinary? I never heard a more satisfactory judgment;

and yet the Chancellor cannot make up his mind. It is wonderful; and the more so, because, however long he takes to consider a case, I scarcely ever knew him to differ from his first impression." His habit of "taking papers home" has been frequently censured, as tending greatly to protract the settlement of business. But if it had—and it had, without question—such a tendency, it still enabled him often to prevent the unconscious perpetration of much injustice. After taking home papers, he has entered the court next morning and pointed out material facts, which had escaped the counsel on both sides, but which his industry had enabled him to detect. "I know," he said on one occasion, "it has been a principle on which many who have presided in this court have acted, that a judge is obliged to know nothing more than the counsel think proper to communicate to him relative to the case. But for myself I have thought and acted otherwise: and I know, yes, I could swear—upon my oath—that if I had given judgment on such information and statements only as I have received from counsel on both sides I should have disposed of numerous estates to persons who had no more title to them than I have; and believe me," he added, "that I feel a comfort in that thought—a comfort of which all the observations on my conduct can never rob me."\*

His patience and industry were indomitable. On the Berkeley peerage case he sat for thirty-four days—on the Roxburgh peerage case, thirty-six days—and in the case of Thomas Nias, a bankrupt, he sat for the greater part of two days, with the utmost patience, while the bankrupt, who appeared in person, which of course protracted and complicated the proceeding, went through the minutest details. The Chancellor's attention excited the admiration of all present.

In his disposition of patronage, Lord Eldon has been considered to have been not altogether free from blame. Defending the Chancellor, on one occasion, in the House of

\* "Mr. Solicitor-General," Lord Eldon once said, "may remember a case in which he was concerned before me, where the gentlemen on both sides went into a lengthened discussion, communicated most detailed information, and had actually brought the case to a very extreme stage, and yet had never made the slightest mention of an act of parliament most vitally affecting the ultimate decision of the question: nor would it ever have been mentioned, had I not been so fortunate as to know it." This distinguished Chancellor often asserted that his mind was always most affected by the cases which were *not* cited, and the points which counsel did *not* press.

Commons from some attack which had been made on him. Sir Robert Peel observed, "that e'en his failings leaned to virtue's side."\* An honourable member present whispered to his neighbour, that his lordship's failings then resembled the leaning tower of Pisa, which, in spite of its long inclination, had never yet *gone over*! A certain judge was appointed by him (so runs the story), rather in consequence of his convivial excellences than for any legal acumen he possessed.

Lord Eldon used himself to mention that one morning while dressing he was told a gentleman waited in the drawing-room to see him. He directed the servant to send the stranger to his dressing-room. On his entering, Lord Eldon found that it was the Prince Regent who had paid him so early a visit. His Royal Highness then declared that he would not leave the room until he had promised to make a certain individual a Master in Chancery. To such a solicitation, the Chancellor had no refusal to give.†

Master Cross, who had been a captain in the militia, obtained his office simply because he had rendered the Chancellor some accidental service in the street. Lord and Lady Eldon were proceeding through a dirty street in their carriage, when it unfortunately broke down, and but for the gallant exertions of Captain Cross the Chancellor and his lady would have been deposited in the kennel. Lord Eldon certainly repaid the assistance thus afforded him in the most liberal manner.

The candidates for his livings who had the fairest chances of success, except, indeed, such as had fathers, brothers, cousins, or patrons zealous members of the ministerial majority in either house of parliament, were such "sporting parsons" as had had the good fortune to have accompanied the keeper of the king's conscience in his shooting expeditions, and the good sense to have given him the credit of

\* George III. gave the Chancellor a seal on which was engraved Justice with eyes unbandaged directed in her path by Religion. The king, on presenting him with the seal, told him "That Justice was generally painted blind, but he did not see why she should be so, if her path were guided by Religion."

† A similar story is told of Sir W. Grant's appointment to the Exchequer Court. Lord Loughborough had fixed on a successor to Sir F. Buller. He was surprised in going into his private room, after sitting in Lincoln's-Inn Hall, to find the Prince of Wales waiting for him, who insisted he should appoint his Attorney-General, Sir W. Grant, to the vacant post. Lord Loughborough reluctantly gave the desired promise.

the greater number of the birds bagged. "My list is full," was the usual reply to such as, upon the strength of mere scholarship or piety, ventured to implore the benefits of his patronage.

His manner to the bar was bland and agreeable. "I admit, freely and cordially," said Mr. Brougham, "that of all the judges before whom I have practised—and I have practised much—he is out of all comparison, and beyond all doubt, by much the most agreeable to the practitioners, by the amenity of his manners, and the intuitive quickness of his mind. A more kindly-disposed judge to all the professional men who practise in his court never, perhaps, existed." His wit and good humour made him popular amongst the bar. When a young counsel moved for an injunction against digging up pasture-land, and sowing it with wheat, or any *other pernicious crop*, Lord Eldon replied—"You may take your injunction, but in the north we are not in the habit of calling wheat a *pernicious crop*." "Your lordship," once said Sir C. Wetherell, "cannot be supposed to be a great strategist; it is no disparagement to say that you have not the army list by heart." "No, Sir Charles," replied the Chancellor, smiling, "I know nothing of military matters—all my acquaintance is with the Lincoln's-Inn Volunteers." Sir James Graham, the solicitor, was at one time engaged in a great many private and other bills, and was frequently intrusted with the office of carrying them up from the Lower to the Upper House. One evening Sir James came up to the bar no less than twelve times, with twelve separate bills. Twelve times was the Chancellor compelled to come down to the bar, purse in hand, to receive the bills. On the twelfth time Lord Eldon said to the solicitor—"What, have you got another? When I used to know you first you used to be called *Jem Graham*, but now we'll call you *Bill Graham*!" He would suffer, however, no undue familiarity. On one occasion he delivered judgment in a cause which had been on the paper so long that its history had been wholly forgotten. When he had concluded, Mr. Heald said, "I know I was in this case, but whether judgment is for me or against me I have not at this distance of time the most distant conception." "I have a glimmering notion that it is for me," said Mr. Horne.\* Lord Eldon checked the conversation, by de-

\* A similar occurrence took place in the Vice-Chancellor's Court, in 1829. A case was set down on the paper to be spoken to, and Messrs. Horne and Pemberton were heard on one side—Mr. Sugden, following, concurred in the argument of his learned friends—

siring, in a grave tone, that counsel would not make him the subject of their observations. It is said that Lord Eldon behaved towards solicitors in his private room almost as though they were his equals. "You never gave me a brief," he said once to one of them. "How was that?" "Yes but I did," replied the solicitor, more curtly than courteously. "Nay, nay, but I am satisfied of the contrary, and I *must* be the best judge on such a point." He then proceeded to express a conviction hostile to the solicitor's case, who rudely exclaimed, "Your lordship is decidedly wrong. I'll have the decision reversed in the Lords." "Perhaps, Mr. —," said the Chancellor, rising, "you had better take this chair and pronounce judgment yourself."

Both George III. and his successor were extremely attached to Lord Eldon. When Prince Regent, the latter once desired "Old Bags," as he was fond of calling his faithful Chancellor, to be sent for. A short time afterwards, the late Mr. Bankes, the member for Dorsetshire, entered the room with a look of peculiar complacency, but was shocked at discovering, by the prince's manner, that his appearance had not been expected. He then stated that he had come in consequence of a command to that effect sent him from his royal highness. "Oh! I see," said the prince, laughing, "they have confounded the name. It was not *Old Bankes* I had sent for." The "fine old English gentleman" had informed every friend he met on his way to Carlton House, that "the Regent had sent for him," and this, no doubt, aggravated his embarrassment when he had discovered the mistake.

The old King would not, however, listen to the Chancellor when he wished, on account of frequent headaches, to dispense with the full-bottomed wig proper to his office. Lord Eldon urged that the wig was a modern fashion, and

"The law here was quite clear." "There Mr. Sugden is with you, Mr. Horne," said the Vice-Chancellor. Mr. Horne said that the argument of his learned friend was, to his great surprise, on his side; but his learned friend happened to be on the other! This excited great laughter in the court. Mr. Sugden who, after consulting with his junior (Mr. Jacob), seemed not a little disconcerted, said he had mistaken his side. What he had said, however, was said in all sincerity; and he never would for any client, be he whom he might, argue against what he thought a settled rule of law. As his learned friends had differed on the present point, he hoped his Honour would decide it without reference to what had fallen from him: and this the Vice-Chancellor promised to do.



was only part of the full dress of the court of Charles II. "That is very true," said the King, "but before that time judges wore long beards. I will consent to your giving up the wig, if you will wear the beard instead!"\* The same good old King, when hunting near Windsor, came in at the death of a stag which had not afforded much sport, while another out of the same herd had given a good run a few days before. "Ah!" said the King, "there are not often two Scotts in the same family."†

Sir Thomas Plumer was the first Vice-Chancellor appointed under the Act of 1813. All his urbanity was insufficient to overcome the dislike the great leaders of the bar had shown to the institution of his court. His judgments, although unquestionably displaying much learning, were

\* It was *Lady Eldon*, it has been stated, who objected to the wig. Her ladyship in this differed with George Colman, who, once looking at the Chancellor arrayed in his full costume, exclaimed, "How the wig becomes the Chancellor! His head seems made to wear that wig!" Fuseli, seeing a portrait of Eldon in Sir T. Lawrence's painting-room, which he had painted for Mr. (the late Sir Robert) Peel, asked Sir Thomas "who it was?" Sir Thomas told him "it was the Chancellor." "Den, by G—," exclaimed Fuseli, in his strong German accent, shrugging up his shoulders, "I shall get out of his glotches (clutches). Give me a bit of chalk." It was given to him, and he wrote upon the portrait—

"Olim quod vulpes egrotō cauta leoni  
Respondit, referam : quia me vestigia terrent  
Omnia te adversum spectantia, nulla retrorsum."

HOR. EP., L. i. 73.

When Lawrence showed the labelled and libelled physiognomy to Lord Eldon, he laughed heartily.

† When Lord Eldon was Chief Justice of the Common Pleas, he was travelling the Western Circuit at the time George III. was at Weymouth. The King sent to him at Dorchester, and desired him to come over to see a celebrated actor at that time at Weymouth. The judge came over, and, during his stay, joined the royal party in a boating excursion. They landed at some part of the coast to see a ruin, and while they were wandering about, the boat's crew invaded a neighbouring orchard, and helped themselves liberally to the apples. The owner and the royal party returned at the same time, and Lord Eldon was loudly threatened by the farmer with being taken up along with his party, and carried before the judges next day for felony! The anniversary of Lord Eldon's natal day was the same as that of his affectionate master. "Do not congratulate me," the King would say to his Chancellor, "till I have paid my respects to you on this happy day."

prolix and tedious to an insufferable degree. In reference to this was the following epigram written—

“ To cause delay in Lincoln’s-Inn,  
Two different methods tend ;  
His Lordship’s judgments ne’er begin,  
His Honour’s never end.”

With all their diffusiveness, however, they were exceedingly forcible, though familiar in their style. In one well-known case, he is said to have expressed himself after this wise—“ Testator says to himself, I’ll have the right heir of Samuel Rolle, and be *he* male or be *he* female, he’s the man for my money !”

He was unable to command the regular attendance of a bar. His usher, it has been said, might often be seen running about, even among the juniors, asking for employment—“ Pray, sir, have you anything to move? Can you bring on anything before his Honour?”

Very far his superior was Sir William Grant, one of the most accomplished lawyers that ever presided in an equity court. Early in life, and before he was called to the bar, this distinguished man went to Canada, where he practised as an advocate. When not twenty-five years of age he was appointed Attorney-General of that province; and, when Quebec was besieged by General Montgomery, commanded a body of volunteers. Feeling, however, that the colonial bar did not afford a field sufficient for his talents, he resigned his appointment and came to England, where he for some time frequented the courts without a brief. On one occasion, however, being retained in an appeal from the Court of Session in Scotland to the House of Lords, he displayed such abilities, that Lord Thurlow, then Chancellor, observed to a friend near him, “ Be not surprised if that young man should one day occupy this seat.” So much notice did the Chancellor take of him after this, that Grant devoted himself solely to practice in the equity courts, and soon obtained a tolerable share of business. Through Lord Thurlow’s agency, he acquired a seat in parliament, where he distinguished himself as an able and eloquent speaker.

Few lawyers have made the impression on the House that Grant was in the habit of doing. No one was found more difficult to answer. “ Once,” says Lord Brougham, “ Mr. Fox, when he was hearing him, with a view to making that attempt, was wrinkled in a way unwonted to his sweet temper by the conversation of some near him, on to the show of some crossness; and (after an exclamation) he sharply said, “ Do you think it so very pleasant a

thing to answer a speech like THAT?"\* After filling various other offices, Sir W. Grant succeeded Lord Alvanley, as Master of the Rolls. He is said to have had frequent opportunities of being raised to the woolsack.

Between Sir John Leach and Sir William Grant there was a marked contrast, although both of them obtained and deserved the reputation of being able lawyers. But to constitute an efficient judge other qualities are needed which are not necessarily involved in the idea of a good *lawyer*. Urbanity, patience, and impartiality are all qualities without which a man may readily become eminent for his legal knowledge, but without which he is wholly unfit for the bench or the woolsack. Sir John Leach had many disadvantages to encounter, to which we need not particularly allude. He was the son of a tradesman at Bedford, was for some time in a merchant's counting-house, and, after leaving this situation, entered the office of Sir Robert Taylor, the eminent architect, and ultimately went to the bar. He became successively Vice-Chancellor and Master of the Rolls: to the latter office he was appointed by Mr. Canning, who had previously, it has been said, offered it to Mr. Brougham.†

Sir John Leach was not only a clever lawyer, but also a fine gentleman, by no means unknown in the West End, and always esteemed a desirable acquisition at the card-tables of venerable dowagers. He delighted when presiding in his court in saying sharp and bitter things; but he always did so in accents the most suave and bland. No submission could meliorate his temper, no opposition asperate his voice. He would frequently pronounce judgment

\* His successor, Lord Gifford, when Attorney-General, had frequently to encounter Sir Samuel Romilly in the House of Commons. "The night before he was to meet him upon a very important debate he told me," says Dr. Dibdin, "he had not slept one wink. Mr. Canning sat close to him when he rose, and cheered him as he went on; but at first he was scarcely conscious of being upon his legs, and did not know whether the Speaker was in the chair or his opponent in the House, though he sat immediately opposite to him; but he soon shook up his intellectual energies, became warm, fluent, courageous, and convincing." It was of him an ex-chancellor is reported to have said, that he had risen as does a man in a balloon—by an impulse not originating in himself.

† The premier is said also to have offered the place of Chief Baron of the Exchequer to Mr. Brougham, who refused it on the ground that it would prevent his sitting in Parliament. "True," was the reply, "but you will then be only *one stage* from the woolsack." "Yes," returned Brougham, "*but the horses will be off.*"

without assigning a single reason. The fatal decree was uttered in a tone of appalling solemnity, betraying, however, the opinion he entertained of the application. In his days, as is well known, the Rolls Court sat only in the evening. The appearance the court then presented to a stranger seeing it for the first time must have been very absurd; for, when his Honour had taken his seat, two large fan shades were placed in such a position as not only excluded the light from his eyes, but rendered him invisible to the bar and public. After the counsel who was addressing the court had finished and resumed his seat, there would be an awful pause for a minute or two; then, at length, out of the darkness which surrounded the chair of justice, would come a voice, distinct, awful, solemn, but the solemnity was the solemnity of suppressed anger—"The bill is dismissed, with costs." No explanations—no long series of arguments advanced to support this conclusion—the decision is given with the air of a man who *knows* he is right, and that only folly or villany could doubt the propriety of his judgment.

When Lord Lyndhurst came into office in 1827 he wished to obtain Sir John Leach's consent to a reform in the court (since effected), by which the Rolls should be made a morning court, and the Master should hear motions, &c., like the Lord and Vice Chancellor. Well knowing Leach's temper, Lord Lyndhurst was careful in selecting a person to notify to the Master his wishes. He fixed upon one on whose discretion he thought he could rely, and despatched him. The envoy charged with this delicate mission, obtained an interview with Sir John, and commenced with a long flourish on the Chancellor's wish to diminish the arrears of business which had accumulated in Chancery, dwelt on the duty of public men to make sacrifices for the public advantage, and ran over every topic which he could think of, to prepare the Master for the coming request. Sir John, he was delighted to observe, heard him with the greatest attention, bowed, smiled, said "Certainly," "To be sure," "Without doubt," just in the right places. The messenger thinking that the rumours he had heard of Sir John's temper were altogether unfounded, then "popped the question." In a tone of emphatic politeness, betraying neither surprise, nor anger, nor anything but resolution, the Master answered, bowing, "Sir, I will *not*. I wish you a good morning"

Sir John Leach, though by no means deficient as a lawyer, had a reckless, slashing way of getting through business, which often wrought great injustice. In this respect the Chancery Court, presided over by Lord Eldon, formed a range contrast with the Rolls Court under the direction Leach. The first, the lawyers used to call the court of

*Oyer sans terminer*, and the latter the court of *Terminer sans oyer*. This expeditiousness drew praises from some people ; or is the following epigram only "satire in disguise ?"—

A judge sat on the judgment-seat ;  
 A goodly judge was he ;  
 He said unto the Registrar,  
 " Now call a cause to me."  
 " There is no cause," said Registrar,  
 And laughed aloud with glee,  
 " A cunning *Leach* hath despatch'd them all ;  
 " I can call no cause to thee !"

It is to some of our more illustrious common law judges our attention must now be directed. Very needless is it to say that amongst the earlier of these Sir Edward Coke ranks the very first ; but not only our limits, but even our very design will not, however, permit our tracing as minutely as we should wish his singular career. We must content ourselves with some details with which it is scarcely probable the general reader is acquainted. A great patriot, a still greater lawyer, we are naturally desirous of learning something of his domestic habits and personal character. A passage in his grandson, Roger Coke's *Detection*, sheds light on those matters.

When Winwood had apprised James of the Earl of Somerset's share in the murder of Sir Thomas Overbury, the king sent a messenger to Coke to apprehend the earl. " Sir E. Coke then lay at the Temple, and measured out his time at regular hours, two whereof were to go to bed at nine o'clock, and rise again at three. At this time Sir Edward's son, and some others, were in Sir Edward's lodgings, but not in bed, when the messenger, about one in the morning, knocked at the door, where the son saw and knew him ; says he, ' I come from the king, and must immediately speak with your father.' ' If you come from ten kings,' he answered, ' you shall not ; for I know my father's disposition to be such, that if he be disturbed in his sleep he will not be fit for any business ; but if you will do as we do, you shall be welcome, and about two hours hence my father will rise, and you may then do as you please,' to which he assented." Coke used to boast that he never gave his body to physick,\* his heart to cruelty, nor his hand to corruption. " The jewel of his mind," says Lloyd, " was put into a fair

\* " Sir Edward Coke being now very infirm in body, a friend of his sent him two or three doctors to regulate his health, whom he told that he had never taken physick since he was born, and would not now begin ; and that he had now upon him a disease which all the drugges of Asia, the gold of Africa, nor all the doctors of Europe, could cure—old age. He therefore thanked them, and his friend

case, a beautiful body, with comely countenance; a countenance which he did wipe and keep clean; delighting in good clothes well worn, being wont to say that the outward neatness of our bodies might be a monitor of purity to our souls." There were three things for which he was wont to commend himself—his obtaining so fair a fortune with his first wife—his successful study of the laws—the independent way in which he obtained his public employment, *nec precio nec pretio*, by neither prayers nor pence. The principal charges brought against him were those contained in a letter addressed him by his enemy, Lord Bacon:—"In discourse you delight to speak too much—not to hear other men—by this your affections are enlarged with a love of your own arguments. You cloy your auditory, when you would be observed. You converse with books, not men. You will jest with any man in public, without respect to the person's dignity, or your own. Your too much love of the world is too much seen, when, having the living of ten thousand pounds, you relieve few or none—the hand that hath taken so much can it give so little?" With his second wife Coke lived in terms of disagreement. Their marriage was effected under inauspicious circumstances—and a dispute respecting the marriage of their daughter with a brother of Buckingham, the favourite, induced a separation. We find that on the celebration of this marriage, Coke dined in his chambers in the Temple by himself, while his wife presided at a splendid dinner given in honour of the occasion. One time Coke publicly accused his wife of having purloined his plate, and substituted articles of less worth in their stead; and on another she in turn accused him of having seized her coach and coach-horses, and wearing apparel, maltreated her servants, and caused her to suffer "beyond the measure of any wife, mother, or even any ordinary woman in the kingdom." She seems, however, to have been a lady of tolerable resolution, for it appears from Howell's letters, that "she would not suffer her husband to come in at her fore-doors (Hatton House, in Holborn) or out at her back-door." Coke was of a religious disposition. In mentioning in his note-book an accident that befel him, he did not forget to ascribe to Providence his escape with life.\* "The 3rd of

that sent them, and dismissed them nobly, with a reward of twenty pieces to each man." The above is an extract from a letter by Mr. Meade, written when Coke was upwards of eighty years of age.

\* James I. used to say of him that "he was like a cat—throw him which way you would, he would be sure to light on his feet." But this was in reference to his happy knack of turning to his own advantage any slight put on him.

May, 1632, riding in the morning in Stockwell, at eight or nine o'clock, to take the ayre, my horse under me had a strange tumble backwards, and fell upon me (being above eighty years old), where my head lighted near to sharp stubbles, and the heavy horse upon me; and yet, by the providence of Almighty God, though I was in the greatest danger, yet I had not the least hurt, nay, no hurt at all. For Almighty God saith by his prophet David, 'the angel of the Lord tarrieth round about them that fear him,' et Nomen Domini Benedictum, for it was his work." "He constantly," says Lloyd, "had prayers said in his own house, and charitably relieved the poor with his constant alms"—a declaration sufficient to disprove the charge of avarice which scandal has breathed against him. His last words were, according to the inscription on his monument, "Thy kingdome come, thy will be done." Can we close our notice in better words than those which follow in his epitaph?—

Learne, reader, to live so, that thou mayst so die.

Sir Matthew Hale, the first judge appointed by Cromwell, who was acting on his maxim, of "seeking men for places, not places for men," refused in the first instance the proffered dignity, alleging he was not satisfied with the lawfulness of the Protector's authority." To this Cromwell answered, "that he had possession of the government, and would keep it, but still that it was his desire to rule according to the laws of the land, for which purpose he had nominated him, and that if he was not permitted to reign by red gowns, he would by red coats." By the advice of many eminent royalists of his own profession, Hale yielded at length to the Protector's wishes, and accepted the judgeship so flatteringly offered him. He, however, entertained a strong objection to presiding at criminal trials: at first he stifled his scruples; but, after his second or third circuit, he obstinately refused to have anything to do with them. With state prosecutions he would never meddle. Not long after his accession to the bench, a trial took place before him at Lincoln, under the following circumstances:—An inhabitant of that city, of the royalist principles, being met in the fields carrying a gun by a soldier, the soldier went up to him, and demanded the gun, in virtue of an order of the Protector that no such persons should carry arms. The citizen refusing to surrender his piece, the soldier tried to wrest it from him, but in the struggle got well beaten. As soon as he recovered himself, he ran into the city and got one of his comrades to accompany him, and returned to the contumacious civilian. The gun was again demanded—

and again refused to be given up; and while the owner was struggling with one of the soldiers, the other ran him through with his sword. The assizes happening at the same time, the two soldiers were arraigned for murder, of which one was found guilty, and the other was convicted of manslaughter. Colonel Whalley, the commander of the garrison, insisted that the soldier had discharged his duty, in enforcing an order of the Protector's; but Hale, paying no attention to his threats, not only passed sentence of death upon him, but ordered the execution to take place so speedily that no reprieve could possibly have been sent. Another time the Protector being interested in a particular case, directed a jury to be packed in order to secure his object. Hale immediately dismissed the jury, without trying the case, declaring that no jury could be legally impanelled which was not returned by the sheriff or his lawful officer. Cromwell, enraged, told him that he was not fit for a judge, to which Hale simply replied that that was very true. When Colonel Penruddock was tried in vacation at Exeter, Hale resolutely refused to attend, alleging that his private affairs required his attention, which was a mere feint to excuse himself from being made the instrument of Cromwell's vengeance. At the Restoration, Hale was created Chief Baron of the Exchequer at Clarendon's advice, and on the death of Sir John Keeling, Hale succeeded him as Chief Justice of the King's Bench, an office he held for five years, when his health failing him, he retired into private life.

The judicial merits of Sir M. Hale have always been esteemed very highly. He would never permit counsel to wander from the point at issue; and would even supply their deficiencies when they appeared wanting. A counsel was once defending a Quaker in an action brought against him for debts contracted by his wife before her marriage. He contended that the marriage not having been celebrated according to the rites of the Church of England, was no lawful marriage, and, consequently, that the Quaker was not liable. Hale saw at once that the consequence of this argument would be the bastardizing of the children of all Quakers. He directed, therefore, a special verdict to be returned.\*

As a criminal judge, he followed his own precepts. "In

\* This brings to recollection an anecdote related by Chief Justice Wilmot at an assize dinner. He once tried an innkeeper at Warwick for nearly poisoning some of his customers with some infamous port-wine. The fellow escaped by proving that there had never been one drop of genuine port-wine in the hogshead.



business capital, though my nature prompt me to pity, yet to consider that there is also a pity due to the country ; if in criminals it be a measuring cast, to incline to mercy and acquittal. In criminals that consist merely in words, when no more harm ensues, moderation is no injustice. In criminals of blood, if the fact be evident, severity is justice." He was once pressed for a recommendation to the royal mercy, but replied that he did not think they deserved to live whom he had sentenced to die ; and could be prevailed on to do nothing more than to forward a statement of the facts to the King, leaving the result wholly in his hands. Having removed an individual from an office for misconduct, he was entreated by the person to sign a certificate for his restoration, or to give him another place. Hale told him that his faults were such that this could not be done, on which the other sank on his knees, and, with tears, most vehemently intreated him to grant his request, declaring that a denial would prove his ruin. Finding Hale was not to be changed by this, the suppliant altered his tone, and reproached him for his cruelty and hardness of heart. Hale, quite unmoved, assured him that he could well endure his reproaches, but must persist in refusing to sign any certificate. He then gave him some money to relieve his wants, and sent him away.

With Richard Baxter he long lived on terms of intimacy ; to the young and despairing wife of John Bunyan, then in prison, he bore himself in open court with a gentleness and kindness that reflects the highest credit on him as a Christian judge. So strict was he in the discharge of his religious duties, that for thirty-six years he never omitted attending at church. "He told me once," says Richard Baxter, "how God brought him to a fixed honour and observation of the Lord's day : that when he was young, being in the west, the sickness or death of some relation at London made some matter of estate to become his concernment, which required his hastening to London from the west ; and he was commanded to travel on the Lord's day : but I cannot well remember how many cross accidents befel him on his journey ; one horse fell lame, another died, and much more ; which struck him with such a sense of divine rebuke as he never forgot." "His habit of dress," says Baxter, "was so coarse and plain, that I, who am thought guilty of a culpable neglect therein, have been bold to desire him to lay aside some things which seemed too homely. The house which I surrendered to him, and wherein he lived at Acton, was well situated, but very small, and so far below the ordinary dwellings of men of his rank, as that divers farmers thereabouts had better ; but it pleased him. He told his

grandchildren that he never changed the fashion of his clothes after he was thirty. He disliked seeing students in long periwigs, or attorneys with swords; any who waited on him took care to be plain in their attire. His house-keeping was according to the rest, like the state of his mind, but not like his place and honour. His great advantage for innocency was, that he was no lover of riches or grandeur."

A short time before his death, on being informed by the clergyman who attended him, that on the next Sunday the Holy Sacrament would be administered, but that, as it was not likely he would be well enough to attend the church, it should be administered to him in his own house, Hale replied, "No! my Heavenly Father has prepared a feast for me, and I will go to my Father's house to receive it." Accordingly he was carried thither, "and received the Sacrament," says Burnet, "on his knees with great devotion; which it may be supposed was the greater, because he apprehended it was to be the last, and so took it as his viaticum and provision for his journey." He had a strange presentiment that if he did not die on the 25th November, he should live a month longer, which actually happened.\*

In the year 1666 an opinion was very prevalent amongst the people that the end of the world was rapidly approaching. Hale was sitting in court during the summer circuit, when a storm arose so fearfully terrific, as to occasion a whisper that the dissolution of the earth was at hand. Great consternation pervaded the court: most of those present betook themselves to prayer; but Hale deported himself with so much firmness and courage, that no one could doubt, had the expected event occurred, it would have brought no alarm to him.

Mr. Justice Burnet was the third son of the famous Bishop of Salisbury, whose sense of propriety he shocked

\* Lord Chancellor Macclesfield had also a singular presentiment, justified by the event, as to the period of his death. A few days before it happened, Dr. Pearce, Bishop of Rochester, called on him, and found him walking up and down the room, suffering from a strangury, which he said had come on him the night before. He then said to the Bishop—"My mother died of this the eighth day after it came on, and so shall I." On the eighth day, Dr. Pearce called on him, and found him in bed, dying. Standing round his bedside were his son, and Lady Parker, and Mr. Clarke, afterwards Sir Thomas, and Master of the Rolls. About ten at night, Lord Macclesfield cried out, "Is my physician gone?" and, on being told that he was, immediately exclaimed, "and I am going too; but I will close my eyes myself—" which he did, and instantly expired.

by his scandalous excesses. While at the Temple, he belonged to the association called the Mohock Club, who borrowed their name from a tribe of Indians, supposed at that time to be cannibals. The president was called the Emperor of the Mohocks. Their object seemed to have been mischief, and as the members were for the most part attached to the Whig party, their vengeance was usually directed against the Tories. After drinking themselves up to a proper point of courage, these worthies would sally out into the streets, and attack every passenger whom they met with that was unprotected. Some they knocked down, others they stabbed or maimed. Their barbarities appear to have excited the terror of Swift, who always expected to be murdered by them. In one of his letters to Stella, he writes—"Young Davenant was telling us how he was set upon by the Mohocks, and how they ran his chair through with a sword. It is not safe being in the streets at night. The Bishop of Salisbury's son is said to be of the gang. They are all Whigs. A great lady sent to me to speak to her father, and to the Lord Treasurer, to have a care of them, and to be careful likewise of myself." Burnet's dissipated habits appear\* to have caused great uneasiness to his father, who, one day, seeing him in a very melancholy mood, asked what he was thinking of. "A greater work than your lordship's *History of the Reformation*." "And what is that, Tom?" asked the Bishop. "My own reformation, my lord," rejoined the young rake. "I shall be heartily glad to see it," said his father, "but I almost despair of it." He commenced political pamphleteer in the service of the Whigs. His principal production of this kind bears the following title:—"A certain Information of a certain discourse which happened at a certain gentleman's

\* Dr. Arbuthnot, in his satire on Bishop Burnet, called "Notes and Memorandums of Six Days preceding the Death of a Right Reverend Divine," thus alludes to Mr. Justice Burnet—"Order the family to come upstairs at seven. Resolved to preach before them extempore. . . . Family comes up. Survey them with delight. The damsel Jane has a wicked eye. Robin seems to meet her glances. Unsanctified vessels! Children of wrath! Look again at Jane. A tear of penitence in her eye. Sweet drops! Grace triumphs! . . . Sin lies dead! *Wish Tom were present.* He might be reformed. Consider how many sermons it is probable Tom hears in one year. Afraid not one. Alas! the Temple. Alas! the Temple. The law eats up divinity; it corrupts manners, rains contentions amongst the faithful, feeds upon poor vicarages, and devours widows' houses, without making long prayers. Alas! the Temple. Never liked that place since it harboured Sacheverell,"

house, in a *certain* county ; written by a *certain* person then present, to a *certain* friend now at London ; from whence you may collect the *certain*ty of the account." This title was imitated in a poor burlesque of a work he wrote on his father's character, "A *certain* dutiful Son's Lamentation for the death of a *certain* right reverend ; with the *certain* particulars of *certain* sums and goods that are bequeathed him, which he will most *certain*ly part with in a *certain* time." Burnet wrote an imitation of the *Tale of a Tub*, which neither obtained nor deserved the popularity of the original. He also, with Mr. Duckett, published a travestie of the first Book of Homer, for which Pope honoured them with a place in the *Dunciad*—

Behold yon pair, in strict embraces join'd,  
How like in manners, and how like in mind ;  
Equal in wit, and equally polite,  
Shall this a Pasquin, that a grumbler write.  
Like are their merits, like rewards they share ;  
That shines a consul—this, commissioner.

This refers to Burnet's appointment as consul at Lisbon, which took place at this time. During the time he held the office he had a quarrel with the envoy, on whom he revenged himself in the following manner. Employing the same tailor as his excellency, and having learned what dress he intended to wear upon a grand fête-day, Burnet had liveries made for his servants of precisely the same pattern, and appeared in a plain dress himself. He was, however, recalled, together with his excellency, and then resumed the study of the law, and after holding the office of King's Serjeant, was made one of the Judges of the Common Pleas. To show how little his love of a joke was affected by his exaltation, the following anecdote may be mentioned. When in the country, as he was returning home by a rough road, his coach broke down. On the coachman afterwards begging his pardon, he good-humouredly observed, " Oh ! never mind, John ; you have only fulfilled the prophecy that ' the judges shall be overturned in stony places.' "

Sir John Holt was the son of an Oxfordshire knight, of good property, and a bencher of Gray's-Inn. In his early years, especially when at Oxford, it appears that he was conspicuous for his idleness and dissipation. It is said that during his residence at the University, Holt, together with some associates as reckless as himself, were rambling over the country until their resources failed them. Upon this event they agreed to separate, and Holt pursued his journey alone. Towards evening he reached a comfortable inn, which he immediately entered, ordered an excellent supper,

and desired that his horse should have every attention paid to it. After he had concluded his repast, he strolled into the kitchen, where he saw a daughter of the hostess standing by the fire shivering with ague. The hostess told him that her daughter had been nearly a year in this state, and that although she had spent nearly forty pounds in doctors and doctors' stuff, she could obtain no relief. Holt listened to this detail with the greatest attention, and assured the mother that she need be under no further apprehensions, as he knew an infallible cure for her daughter's disorder. He then returned to the parlour, and hastily scribbling a Greek sentence on a slip of parchment, carried the charm to the anxious mother, desired her to bind it round the sufferer's wrist, and declared she would then hear no more of the ague. The hostess obeyed these directions, and fortunately the ague *did* disappear, and Holt accordingly acquired the reputation of a miracle-worker. At the end of a week he boldly called for his bill; but the grateful landlady assured him that she it was who was in debt to him, and only regretted her inability to cancel the obligation. Forty years passed over, and the gay and thoughtless student had become Chief Justice of England. At the assizes for the city in which this ludicrous adventure took place he had to try an old woman accused of witchcraft, being possessed of a charm for curing and spreading diseases amongst cattle. The Chief Justice at the trial desired to see this redoubtable charm, and to his amazement he found it to be the identical slip of parchment and characters with which he had himself deceived the credulous landlady. He related the anecdote to the jury, and the poor old woman was immediately acquitted. When he was Chief Justice he once recognised in a culprit whom he had to try one of his quondam associates. After this worthy had been convicted, Holt visited him in prison, for the purpose of learning what had become of his early companions. "Ah, my lord," was the criminal's reply, "they are all hanged except your lordship and myself." It is not a little remarkable that Holt should in after years display not simply great talents, but also immense learning. The possession of great talents is noways incompatible with the pursuits of the rake and the reveller, but learning is the fruit of industry, and industry is a habit, like all other habits, rarely acquired except in youth, when our intellect, vigorous and hardy, renders us indifferent to toil and fatigue. Called to the bar in 1663, he soon obtained a considerable practice, although it would seem success did not attend his first efforts. He was counsel for the Popish lords in 1680, and in 1683 he was retained by Lord Russell

to argue a technical point arising out of his trial. When Charles commenced that system of oppression and misgovernment, in consummating which his brother lost the throne, Holt joined the ranks of the opposition, and was in James's time made the victim of his attachment to the law, by being removed from the Recordership of London because he refused to acknowledge the power of dispensing with the laws claimed by the king. After bearing a distinguished part in effecting the revolution, Holt was appointed Chief Justice of the King's Bench by William III. When a mob assembled in Holborn, threatening to pull down a crimping-house, a body of the Foot Guards were desired to disperse them. The Commanding Officer sent to Holt to beg him to direct some constables to accompany the soldiers, and give their proceedings the countenance of legal authority. "And pray, sir," said Holt to the officer who brought the message, "what will you do if the people refuse to disperse at your coming?" "Why, in that case, my lord," replied the officer, "we have only to fire upon them." "Have you so, sir," rejoined Holt, "then take notice if you do, and one be killed, and you are tried before me, I will take care you and every soldier in your party is hanged. Go back, sir, to those who sent you here, and tell them that no officer of mine shall accompany soldiers, and let them know that the laws of this kingdom are not to be executed by the sword; these matters belong to the civil power, and you have nothing to do with them!" Having thus dismissed the officer, he went himself to the scene of riot, accompanied by some tipstaves and constables, and succeeded in quelling the disturbance simply by his firmness and tact. In Holt's time there were some persons in London who pretended to possess the power of foretelling future events, and who were called the French prophets. Holt having upon occasion committed one of these to prison, a disciple of his came to the Chief Justice's house, and desired to see him. He was told by the servant that his lordship was indisposed, and could see no company that day. "But tell him," replied the deluded individual, "that I must see him, for I come from the Lord God!" This extraordinary message being communicated to Holt, he desired the applicant to be shown in, and when he entered, inquired his business. "I come from the Lord, who bade me desire thee to grant a nolle prosequi for John Atkins, his servant, whom thou hast thrown into prison!" "Thou art a false prophet, and lying knave," returned the Chief Justice; "if the Lord had sent thee, it would have been to the Attorney-General, for the Lord knoweth that it is not in my power to grant a nolle prosequi."

One time Holt's wife being very ill, he sent for Dr. Radcliffe, the first physician of the day, but who entertained the greatest possible aversion to Holt. This excited general surprise, which was not diminished when it was found that Radcliffe paid her ladyship a degree of attention he did not usually accord his patients. On being asked his reason, he replied—"I know Holt wishes the woman dead, so I'm determined to keep her alive to plague him!"

Lord Mansfield is justly esteemed one of the most eminent judges that have ever adorned the bench. Although he owed his elevation rather to the political services he had performed for the minister in the House of Commons, than to his qualifications as an accomplished lawyer, he never, to his credit be it said, displayed, as a judge, any of the partialities of a partisan. In the determination, however, of those moot questions in our law, into which political considerations unavoidably intrude, and in which, as the law has spoken in doubtful accents, the judge in his decision is regulated in some measure by his notions of expediency, Lord Mansfield showed a strong leaning towards the side of prerogative, and a devotion to the house of Brunswick far more fervent than his devotion to the principles that seated that house on the throne. In respect to the law of libel, he strenuously supported the doctrine which left it to the judge, instead of the jury, to settle whether the publication was or was not libellous. He has been also accused of esteeming very lightly the trial by jury; but Mr. Bulter, than whom a more competent witness could not be found, has positively declared this assertion to be untrue, and that Lord Mansfield found no part of his duty more agreeable to him than attending the trials at Guildhall.

Of his judicial character, undoubtedly the most prominent feature was his anxiety that substantial justice should be done in every case brought before him. It has been said, and with truth, that this anxiety was not always restrained by a due regard to the appropriate duties of a judge, as well as the characteristic functions of a court of law, as distinguished from a court of equity. Nor is it difficult to account for this. When at the bar, Lord Mansfield practised chiefly in the Court of Chancery, where he saw daily in operation a system which, looking rather to the intentions of parties than to the strict letter of the law, was founded upon principles of liberal and enlarged construction unknown to the courts of common law. These principles were enforced by Courts of Equity in the discharge of their peculiar duties, in ameliorating the rigor and supplying the deficiencies of the law; but admirably adapted as they were for this purpose, they were wholly foreign to the nature

and design of our law courts. This consideration was overlooked by Lord Mansfield, and, in overlooking it, he almost converted the court of King's Bench into a court of equity: he did even worse—he introduced a system of lax interpretation, which has added incalculably to the vagueness and bulk of English law, and has made it burthensome to the judge and costly to the suitor. "My dear Garrick," once observed Lord Mansfield to the great actor, "a judge on the bench is now and then in your whimsical situation between tragedy and comedy—inclination pulling one way, and a long string of precedents another." Shortly after he became Chief Justice, a learned counsel took up much of the time of the court in citing several black-letter cases, to show the true construction to be put on an old woman's will. Lord Mansfield heard him to the close of his argument, and then addressed him gravely, "Pray, sir, do you think it in any ways likely that this old woman ever heard of these cases? And if not, what construction do you think common sense points to?" He then decided for common sense. It has been said that he was not a very profound lawyer, but this assertion is hardly reconcilable with the fact that he habitually disposed of questions of a purely legal character with readiness and evident ease to himself. He was always anxious that it should be understood that whatever he did was the effect of his genius, and not of his industry; and this, probably, often led him to conceal the depth and extent of his legal knowledge. It is certain that he never admired the subtleties and refinements of our ancient lawyers. Coke\* he held in the greatest aversion, chiefly, he said, because he attempted to give reasons for everything, and also, we may believe, because his pure and classical

\* A student once called on Lord Mansfield with a letter of introduction; and after some inquiries, the veteran judge asked him if he were perfect in *Coke upon Lyttleton*. He replied that he was not altogether perfect, but intended reading it over again for the third time. "Take a little rest, sir, take a little rest," said his lordship; "it is my advice that you should now take a turn with *Enfield's Speaker*." Sir William Jones, when a boy, and previous to the time that he resolved upon adopting the bar as his profession, read and mastered Ireland's *Abridgment of Coke's Institutes*, and with such attention, that he frequently amused the legal friends of his mother by reasoning on them in old cases, which were supposed to be confined to the learned in the profession. It is well known that many English gentlemen, *détenues* at Verdun, who were in no degree connected with the profession, beguiled the tediousness of their confinement by a serious perusal of *Coke upon Lyttleton*, and have often spoken afterwards of the great mental delight which it afforded them.



taste revolted against the harsh and barbarous diction of the venerable patriarch of English jurisprudence. It will be for his decisions on our commercial law that Lord Mansfield will be chiefly remembered by posterity. Here his enlarged understanding found fitting occupation. The foundations of our laws were laid in a period when commerce was almost wholly unknown. When, however, the relations of society became more complex, and commercial differences were daily brought before the courts for adjustment, duties then devolved upon the judge of an especially delicate and important character—duties which exposed him to the danger of departing from his office of interpreter, and trespassing upon the province of the legislator. These duties, needing for their efficient discharge so much wariness and caution, Lord Mansfield performed with his accustomed tact and dexterity. In detecting remote analogies—in extracting, by the aid of a refined logic, from the doctrines of our old law, general principles, and applying those principles in the determination of questions unknown to our ancestors, he displayed a reach of mind and extent of knowledge that has won him a high place amongst our lawyers. Nor was it only in great things that he was great. In dispatching the common business of the courts he shone with equal splendour. Lord Sandwich used to say of him, “that his talents were more for common use, and more at his fingers’ ends, than those of any person he had ever known.” The fact that during the thirty-two years he presided in the court of King’s Bench there were but two instances of a final difference of opinion amongst the judges in that court is in itself a high testimony to the merits of his judicial character. It is said that after the determination of one cause he found reason to alter his opinion respecting the direction he had given to the jury, and when he next saw the counsel, against whose client the verdict had been given, desired him to move for a new trial. Mentioning this circumstance a few days afterwards at the Judges’ dinner, they expressed their surprise at the coolness with which he avowed his change of opinion. “Why,” said he, “it is, after all, only showing the world that you are wiser to-day than you were yesterday.”\*

\* It has been related of Mr. Justice Lawrence, a most excellent man and able judge, that at a trial at York he summed up decidedly in favour of the defendant; but having given the case further consideration, it appeared to him that he had altogether mistaken the law. A verdict having been recorded for the plaintiff, he had no redress; but it is generally understood that the judge, feeling the hardship of his situation, left him in his will a sum of money sufficient to indemnify him for the loss he had thus sustained.

Nothing could be more agreeable than Lord Mansfield's elocution, although his language would not always endure critical examination; but his voice was so pleasing, and his gesture so graceful, that all his other defects were overlooked. Wilkes said, that to hear the puisne judges deliver their judgments after their chiefs had concluded, "was like a draught of hog's-wash after a bottle of champagne." Mansfield was particularly happy in the statement of a case. Some one observed that it "was worth the argument of another man." He was fond of enlivening the court with sallies of good humour. A Jew was once brought before him to justify bail for fifty pounds, who made up in lace upon his coat what he wanted in honesty in his character. The counsel put to him the usual question—"Are you worth fifty pounds after your just debts are paid?" "How can you ask such a question," exclaimed Lord Mansfield; "don't you see that he would burn for thrice the money."\*

At the sittings of Guildhall, an action of debt was tried before him, in which the defendant, a merchant of London, complained with great warmth of the plaintiff's conduct, in having caused him to be arrested, not only in the face of day, but upon the Exchange, where all the merchants of London were assembled. Lord Mansfield stopped him with the greatest composure, saying, "Friend, you forget yourself, *you* were the defaulter in refusing to pay a just debt; and let me give you this piece of advice, for the future do not put it in any man's power to arrest you, either in public or private."

Lord Mansfield's private character was marked by pru-

\* When he was a schoolboy at Westminster, Lady Kinnoul invited him to spend one of the vacations with her. One day, going into the room where he was sitting, she found him "musing in sorrowful mood," with a pen in his hand. She asked him whether he was writing his theme, and what in plain English the theme was. "What's that to you," replied Murray, quickly. "How can you be so rude?" said her ladyship; "I asked you a civil question, and did not expect so pert an answer." "Indeed, my lady," rejoined the young wit, "I can give you no other answer—what is that to you." The theme was *Quid ad te pertinet?* One of the right reverend bench of bishops having built and endowed an alms-house for twenty-five old women, Murray, then at the bar, was applied to for an inscription—upon which he wrote the following:—

Under this Roof,  
The Lord Bishop of Bath and Wells  
Keeps  
No less than Twenty-five Women,

dence. He might with perfect propriety have assumed the motto of Sir Nicholas Bacon—"In mediocribus firmior." Before he was raised to the bench, it is believed he had the opportunity offered him of becoming the head of the cabinet; and afterwards the Great Seal was repeatedly pressed on his acceptance. But he wisely declined dignities so precarious as these. This cautious spirit he carried into the discharge of his official duties. When he was Attorney-General, it is said, that he never lost a Crown cause, because he took care that the Crown should never become a party to legal proceedings when its rights were not a matter of certainty. He held extreme measures in extreme aversion. He was the first judge that openly discouraged prosecutions on the Popery laws. When he was asked his opinion as to the propriety of prosecuting Wilkes, he replied, "I am decidedly against the prosecution. By a public notice of him, you increase his consequence, the very thing which he covets." His prudence upon one occasion was displayed remarkably inopportunately. When London was in the hands of an undisciplined rabble, he is known to have shrunk from the responsibility of expressing his opinion upon a question, since judicially determined, whether troops can lawfully act against the people, without the Riot Act having been first read.\*

He displayed, however, a proper firmness when he was consulted by the king as to the propriety of pardoning Dr. Dodd. Adverting to two young men who had been shortly before executed for the same crime, he said emphatically—"If Dr. Dodd ought to be pardoned, the Perreaus have been murdered." Lord Mansfield, however, was no admirer of a sanguinary code. Being desirous to save the life of a man that he was once trying, who had stolen a watch, he desired the jury to value the watch at tenpence. The prosecutor immediately called out, "Tenpence—tenpence! Why, my lord, the very fashion of it cost five pounds!" "True," said his lordship gravely, "but we must not hang a man for fashion's sake!" When Wilkes applied for a reversal of his outlawry, he took every means to terrify the judges whose decisions he apprehended would be unfavourable to him. Obscure threats of personal violence were held out, and Westminster Hall and the Court of King's Bench were

\* In these riots Lord Mansfield himself suffered severely. His house, with a valuable library and collections was totally burnt. He was offered recompense for his losses by the Treasury, but he declined it. When speaking in the House of Lords upon some legal question, shortly after the riots, he said, "This I say not, my lord, from books, for books I have none."

crowded on the day of the trial with such a rabble as seemed fully qualified to carry such threats into execution. Throughout the trying scene Lord Mansfield behaved not only with courage, but with a dignity and impartiality worthy an English judge. When he pronounced for the reversal of the outlawry, he took care to observe, that the menaces which had been uttered to deter him from executing his duty had brought to him no terror, and that he decided for the reversal "singly upon the authority of cases adjudged." Somebody asked him, shortly after the commencement of the disturbances in France, when the Revolution would end: "I fear," said he "it is not yet begun." On another occasion his opinion was asked of its ultimate issue. He replied, with his habitual caution—"It is an event without precedent, and therefore without prognostic."

Of his private character we may observe, that it in nowise fell short of his public talents.\* He retained to the last his accustomed cheerfulness. One day he paid a visit to Sir Thomas Parker, the Chief Baron of the Exchequer. The conversation turned upon their respective ages. The Chief Baron observed—"Your Lordship and myself are not at sixes and sevens, but at sevens and eights." Lord Mansfield was in his seventy-eighth, and Sir Thomas in his eighty-seventh year. The *youthful* peer presently turned the conversation by exclaiming, "Pooh! pooh! Sir Thomas, let you and me talk about the young ladies, and leave old age alone!"†

As a proof how little age impaired Lord Mansfield's

\* Although an extremely handsome man, Lord Mansfield was destitute of everything like personal vanity. Sir Joshua Reynolds says, that when Lord Mansfield was sitting to him for his portrait, he asked his lordship if he thought it was a likeness. "I really cannot say, Sir Joshua," replied the chief, "for I have not seen my face in a looking-glass for thirty years. My servant always dresses me and puts on my wig, so I have no need of consulting the mirror." Writing to his son, Sir Robert Cecil, respecting the appointment of some judges, Lord Burghley says, that "For choice of a baron, I think Serjeant Heale, both for learninge, wealth, and strength of body to continue, being also a *personable man*; which I wish to be regarded in all such officers of public calling."

† When this venerable Baron resigned, Sir Sidney Stafford Smythe was appointed his successor. The new Chief Baron was prevented by gout from attending in court at the Judges' dinner on the first day of the term after his elevation. Lord Mansfield jocosely observed, "That Lord Chief Baron Smythe should resign in favour of his predecessor!"

powers, the following anecdote was related by Lord Chief Commissioner Adam.\* Speaking of a trial, in which he was himself counsel, when Lord Mansfield was in his eightieth year, he says, "Erskine was leading counsel one side, and Pigot on the other. The question was whether a certain person was subject to the bankruptcy laws, as being a trader within the meaning of the statute. The case had lasted from nine in the morning till past seven in the evening. When the case for the defendant had closed, Lord Mansfield stopt the reply, and addressing himself to the counsel, said, 'I think I can dictate a special verdict which will bring this long-contested case to a close. Listen to me, and be sure that I am correct.' He then desired the associate to take down what he was going to state. He began with the parole evidence, stating facts which left nothing but a question of law. Wherever documentary evidence came in, in the course of the parole, he put it in its proper place, with its proper date and description, adding, 'here, take it in front' (to save transcription at the time). In this way he went on to the end of the evidence—the counsel on each side were perfectly satisfied—the case was heard in the term, and the question which had been so long litigated was finally settled, and has become a leading case in what constitutes trading within the statute. This exhibition astonished all of us that heard it; it required the combination of quickness of apprehension and discrimination of facts, as raising a question of law for the court, and not one of evidence for the jury. I cannot forbear adding, that about nine o'clock at night, when the case had closed and the jury had found their verdict, Lord Mansfield, addressing himself to the counsel who had remained in court, said, 'Gentlemen, as you have lost your dinners, you had better come and dine with me.' He was in great spirits, and full of conversation—a great deal of it turned upon the conduct of counsel in *nisi prius* causes. He told us many anecdotes of persons who had practised before him, with their different manners of conducting business."

Mr. Nollekens, the eminent sculptor, has recorded the following instance of Lord Mansfield's benevolence in his latter days. He was one day standing with his lordship in his farm-yard at Caen Wood, when a little girl came up to

\* Mr. Adam fought a duel with Mr. Fox shortly after Byron's engagement in the West Indies, about which time there was a great clamour respecting the ammunition with which the fleet was provided. Fox, on receiving Mr. Adam's ball, and finding that it had made but little impression, called out, "Egad, Adam, it had beer all over with me if you had not charged with government powder"

him and presented her mother's compliments to farmer Mansfield, and would be obliged to him for a jug of milk. "Who is your mother, my little dear?" inquired Lord Mansfield. "She's just come to live at that small house close by the road." His lordship, with his usual smile, called to one of the helpers, and desired him to fill the child's mug, and if he found the family deserving, never to let them want milk.

We conclude our remarks upon Lord Mansfield's character with an observation that was made on him by one as illustrious as himself: "Lord Mansfield," Lord Thurlow once said, "was a surprising man: ninety-nine times out of a hundred he was right in his opinions or decisions. And when once in a hundred times he was wrong, ninety-nine men out of a hundred could not discover it. He was a wonderful man!"

Lord Mansfield was succeeded in his high office by Sir Lloyd Kenyon, Master of the Rolls, who was then raised to the peerage. While Lord Mansfield was enforcing in a court of law that system which belonged only to a court of equity, Kenyon was charged with adhering, in the Rolls Court, too closely to the letter and spirit of our common law. In truth, to equity and the courts in which it is administered, although he had presided in one himself, Lord Kenyon bore no very great affection.\* A case was brought before him when Chief Justice, which came within the jurisdiction of the judge on the other side of the hall. "You must go into Chancery for redress," said Kenyon, "Abi in malam rem!" This anecdote was related by Lord Eldon. When that great authority, then Attorney-General, had occasion to come before him, "it was amusing to see," says Dr. Dibdin, "how Lord Kenyon seized every tempting opportunity to ridicule the courts of equity, of which Mr. Scott was confessedly the prime ornament."

As to his personal character, we must observe that Kenyon brought to the bench a violent and petulant temper. Whilst at the bar, he was engaged in perpetual wrangles with his colleagues. Once having conducted himself with much irritation of manner, the judge said to him, "Pray, Mr. Kenyon, keep your temper." "My lord," said Mr. Cowper,†

\* On Lord Kenyon once observing that the parties should apply to a court of equity, Erskine pathetically asked, "Would your lordship send a dog that you loved there?"

† Of Mr. Thomas Cowper, Mr. Espinasse has recorded several amusing anecdotes. He seems to have been the Jekyll of his day. When Judge Lawrence was at the bar, he sat in court immediately behind Cowper. The latter having thrown his leg across his knee,

who was sitting by, "you had better recommend him to part with it as soon as possible." On the bench he displayed the same irascible temperament. When the puisne judges differed with him as to a direction he had given the jury, he exclaimed, in a tone of mortified vanity, "Good God! what injustice have I hitherto been doing!" He was once examined respecting the emoluments of his office before a committee of the House of Commons, over which Mr. Abbott, who then held a subordinate post in the King's Bench, presided. Lord Kenyon declining to reply to some question put to him, the chairman, with characteristic pomposity, informed him that he was armed with the authority of the Commons House of Parliament. "Sir," replied the irascible Chief Justice, "I have not come here to be yelped at by my own turnspit!"

To the bar his demeanour was not more courteous; to the Attorney-General it was savage in the extreme. The attorneys were not exempted from his frowns. After trying a question respecting some wager, he turned to the plaintiff's attorney, and sternly said, "Do not bring me actions on bets, sir, but look out for more respectable practice." In order to put down sham pleas—at that time a great source of emolument to attorneys—he would desire them to attend the court, and state their reasons for giving such instructions. Mr. Espinasse mentions an instance in which his prejudice against that branch of the profession led to the ruin of one of its worthiest members. "Mr. Lawless," he says, "was an attorney, one of my earliest friends and clients, and an honourable member of the profession. . . . Complaint was made to the court against him for some imputed misconduct, grounded on an affidavit which the event proved was a mass of falsehood and misrepresentation; but it being on oath, and the charges serious, it was thought sufficient to entitle the party applying to a rule to show cause why Mr. Lawless should not answer the matters of the affidavit. He would have no opportunity of answering them, till he was served with the rule, and had obtained copies of the affidavits on which it was granted. Natural

on which there was a handsome silk stocking, Lawrence observed, "What a handsome clock you have got to your stocking." "Yes," replied Cowper, "it is a *striking* clock!" In the case of a prohibition from the court of the Bishop of Salisbury, of which Dr. Calvert was the judge, it became a question whether that judge had decided the whole question, or a collateral point only. When the opposite counsel were contending that the doctor had decided the whole of the question, "You want," said Cowper, "to force *Calvert's Entire* down our throats."

justice would point out, and the practice of the court was conformable to it, that he should be heard in answer to them, before he was convicted. For that purpose a day is given by the rule, on which the party is to show cause, during which time everything is considered as suspended. This indulgence was refused to Mr. Lawless, though the rule was obtained, on an *ex parte* statement, before any opportunity was afforded to him to answer the charges, or to be heard in his defence. Lord Kenyon, in addition to the common form of the court's assent to the application, which is in these words, addressed to the counsel, 'Take a rule to show cause,' added, '*and let Mr. Lawless be suspended from practising until the rule is disposed of.*' He happened to be present in court when this unexampled judgment was pronounced, and heard the sentence which led to his ruin; he rose in a state of most bitter agitation: 'My lord, I entreat you to recall that judgment—the charge is wholly unfounded—suspension will lead to my ruin—I have eighty causes now in my office.' What was Lord Kenyon's reply to this supplicatory appeal to him? 'So much the worse for your clients, who have employed such a man. You shall remain suspended until the court decides on the rule.' The rule came on to be heard at a future day, after the affidavits on the part of Mr. Lawless were filed. The charges against him were wholly without foundation, and the rule against him was accordingly discharged. Mr. Lawless was, in consequence, restored to his profession, but not to his character or peace of mind. He sunk under unmerited disgrace, and died of a broken heart."

The scandalmonger—the gambler—the seducer—the adulterer—received no mercy at his hands: indeed, his anxiety to punish immorality more than once hurried him beyond his province. Every sacrifice of the essential principles of justice to obtain an immediate good of whatever extent, is in truth a blot on the judicial character. But a hatred of vice was constitutional with Kenyon. The remotest approach to profanity shocked him. At the circuit table one of the bar once related an anecdote of Yelverton, Chief Baron of the Exchequer in Ireland. This learned judge went a Lent Circuit, and one of the assize towns happened to be a place of which one of his college contemporaries held the living: at his own request, the Chief Baron's reverend friend preached the assize sermon. The time being the month of March, the weather was cold, the judge chilled, and unhappily the sermon long and the preacher tedious. After the discourse was over, the preacher descended from the pulpit, and approached the judge 'irking and smiling—looking fully satisfied with his own



exertions, and expecting to receive the compliments and congratulations of his quondam chum. "Well, my lord," he asked, "and how did you like the sermon?" "Oh, most wonderfully," replied Yelverton; "it was like the peace of God—it passed all understanding; and, like his mercy, I thought it would have endured for ever." When this ludicrous tale was related, Lord Kenyon muttered, but audibly—"Very immoral."

His parsimony was more remarkable even than his deficiency of scholarship. "His dress," says Mr. Espinasse, "was the daily subject of joke or comment, whenever the Lord Chief Justice appeared and took his seat on the bench. I happened to be in conversation with Lord (then Mr.) Erskine, at Guildhall, before Lord Kenyon arrived there. When he entered the court, Pope's lines in the *Dunciad*, on Settle the poet, came across me, and I quoted them involuntarily:

"Known by the band and suit which Settle wore—  
His only suit for twice three years before."

"The period of six years," said Erskine, laughing, "during which that poet had preserved his full trimmed suit in bloom seemed to Pope to be the maximum of economy; but it bears no proportion to Kenyon's. I remember the green which he now has on at least a dozen years ago!" "When I last saw the learned lord," continues Mr. Espinasse, "he had been Lord Chief Justice for nearly fourteen years, and his coat seemed coeval with his appointment to the office. It must have been originally black; but time had mellowed it down to the appearance of a sober green, which was what Erskine meant by his allusion to its colour. I have seen him sit at Guildhall, in the month of July, in a pair of black leather breeches; and the exhibition of shoes frequently soled afforded equal proof of the attention which he paid to economy in every part of his dress." The learned judge had a trick of placing his feet in such a way as to make his economy in this respect visible to the whole court. This gave rise to a joke amongst the attorneys, who used to say, if they wanted a judge's order for leave to amend any error in the pleadings—"I shall take out a summons before Kenyon, because he can't refuse an amendment for the *soul* (sole) of him!" In reference to Lord Kenyon's soles, Dr. Dibdin says:—"Once, in the case of an action brought for the non-fulfilment of a contract, upon a large scale, for shoes, the question mainly was, 'whether the shoes were well and soundly made with the best materials?' A number of witnesses was called up. One of them, admitted to be a first-rate character, and of great notoriety in 'the

gentle craft,' upon being closely questioned, returned contradictory answers; when the Chief Justice inquired—pointing to his own shoes—'were the shoes anything like these?' 'No, my lord,' replied the witness, 'they were a good deal *better* and *more genteeler*!' The court was convulsed with laughter, in which the Chief Justice himself heartily joined." "He held," says Mr. Espinasse, "a pocket handkerchief to be a piece of unnecessary luxury, and therefore dispensed with the use of one: he found a sufficient substitute in his emunctory powers, which were eminently attractive."

Lord Kenyon inhabited the large house in Lincoln's-Inn Fields, afterwards tenanted by Lord Erskine, and since by the Verulam Club. Its windows were of an unusual shape, and seemed unconscious of the glazier's hand. The desolate and forlorn appearance of the house, together with the widely-blown reputation of its owner, irresistibly recalled Pope's lines:

"Like some lone Chartreuse stood the good old hall,  
Silence without, and fasts within the wall."

About ten o'clock one night, a lady of fashion, either ignorant of the habits of the Chief Justice, or, which is more probable, intending to annoy him, drove up to his house for the purpose of leaving a card for Lady Kenyon. The footmen, as the custom was then, carried flambeaux, and when they thundered at the door, Lord Kenyon, who was just retiring to rest, sprang out of bed, and flinging up the window, mistook the carriage for an engine, and the menials for firemen. Without stopping to look again, he roared out with his accustomed vehemence—"Be off, you scoundrels—be off, instantly. There is no fire in this house—we don't want your engines here!" The coachman, upon this, prudently drove away. The simplicity of his habits was remarkable. A gentleman, from whom he purchased his house at Richmond, going into the neighbourhood some time afterwards, went to see his old quarters. On a table in one of the rooms he saw lying the Bible, Epictetus, and the Whole Duty of Man. "Does my lord read this?" he inquired of the old housekeeper, taking up the Bible. "No," was the reply, "he is always poring upon this little book," pointing at Epictetus. "I don't know what it is. My lady reads the two others; they come down here of a Saturday evening with a leg or shoulder of mutton; this serves them the Sunday, and they leave me the remains."

With all his defects, Lord Kenyon had a kindness of heart and an integrity of character that entitle him to our respect. An attorney's clerk, once reading to him a con-

reynance, and coming to the word "enough," pronounced it "enow." Kenyon stopped him—"Call it 'enuff'—all words which end in *ough* must be pronounced *uff*, as rough, tough, and the like." The clerk continued his reading, and when he came to the word "plough," looked up in the judge's face, and called it "pluff." Kenyon, it is said, stroked his chin, and with a smile said, "Young man, I sit corrected." Mr. Marsh, the author of "The Clubs of London," gives a pleasing instance of Lord Kenyon, in one of his milder moods. "I had been on a short visit to Richmond, and was returning to town on foot. An old coach came rumbling along, and overtook me on the road to London from Richmond. It was one of those vehicles that reminded me of a duke or marquis, under the old régime of France, retaining, in indigence and want, the faded finery of his wardrobe. Its coronet was scarcely discernible, and its gildings were mouldy; yet it seemed tenacious of what little remained of its dignity, and unwilling to subside into a mere hackney coach. I believe I might have looked rather wistfully at it, for it was a sultry day, when I perceived a head with a red nightcap suddenly pop out from the window, and heard myself addressed by name, with an offer of a cast to London. It was Lord Kenyon, who was returning from his house at Marsh-gate, and I gladly accepted the invitation. He made the little journey quite delightful to me, by an abundance of most characteristic anecdotes of the bar in his own time; of Jack Lee, Wallace, Bower, Mingay, Howarth, the last of whom was drowned in the Thames on a Sunday water excursion. The good old man was evidently affected by the regrets which his name awakened, and they seemed the more poignant, because his friend was called to account in an act of profanation. 'But it was the sin of a good man,' he observed; 'and Sunday was the only day which a lawyer in full business could spare for his recreations.' Insensibly the conversation turned upon Erskine. I know not what perversity of feeling came across me, nor do I recollect precisely what I objected to that eminent man, but it was a repetition of some of the ill-tempered animadversions of Westminster Hall that were then current. 'Young man,' said the Chief Justice, 'what you have mentioned is most probably unfounded; but these things, were they true, are only spots in the sun. As for his egotism, which they are so fond of laying to his charge, they would talk of themselves as much as Mr. Erskine talks of himself if they had the same right to do so. Erskine's nonsense would set up half-a-dozen of such men as run him down.'" Lord Kenyon had once to try a woman for stealing in a dwelling-house to the

amount of forty shillings—at that time a crime punishable with death. The case was clearly proved against her; but it was her first offence, and many extenuating circumstances appeared in the course of the evidence. Lord Kenyon resolved to recommend her to mercy, but was of course compelled by law to pass the sentence of death. She fainted away immediately he began. Shocked beyond measure, the kind-hearted judge cried out—"Good woman, good woman, I don't mean to hang you, I don't mean to hang you! Will nobody tell her, I don't mean to hang her!"

Sir Richard Pepper Arden, afterwards Lord Alvanley, was appointed Master of the Rolls in 1789, and Chief Justice of the Common Pleas in 1801. His decisions in general gave satisfaction, and appeals were not more numerous than under Sir Lloyd Kenyon; they were calculated at seven per cent. The business of the court increased much, especially concerning mercantile and theatrical matters, and disputed wills, ill drawn. From the mistaken adoption of legal words and other causes, this was a matter of no light difficulty at times, when the meaning was often doubtful. On one occasion the counsel asserted that it was the duty of the court to find out the meaning of the testator. "My duty, sir, to find out his meaning!" exclaimed Lord Alvanley. "Suppose the will had contained only these words, '*Fustun funidos tantaraboo*,' am I to find out the meaning of his gibberish?" His warmth of temper sometimes engaged him in altercations with "Brother Best" and others; and it is said that his want of gravity rendered it impossible that he could have justified the saying, "as grave as a judge;" that he would laugh as merrily as a comic actor, and talk in a loose, careless manner, as if he had been the president of a debating society, or a free-and-easy. Upon one occasion, when trying a case in the Hall, and an act of parliament was in question, a learned serjeant quoted a section of it, but was interrupted by Lord Alvanley's saying there was no such clause in the act. "Why but, my lord, here it is," said the serjeant. "Never mind; I tell you I have looked: it is not there," retorted the judge. "I beg your lordship's pardon, but here it is in the book. Read it." The learned judge at length took the book, and having read it, exclaimed, "Oh, true, here it is, sure enough—as sure as God is in Gloucester!"

His manner was extremely pleasant in society, and his company was always courted by the stately Pitt, who enjoyed his liveliness the more perhaps from his own deficiency in that respect. His temper was rather quick and hasty, so that he went far to justify the Frenchman's travestie of his name—*Mons. Poivre Ardent*. It is related that a

friend of his was once startled by Alvanley, who was just going to read prayers to his domestics, according to custom, loudly exclaiming, "*Will no one stop that fellow's d—d fiddling?*" One of the servants, it appeared, had remained behind, and was amusing himself in a more agreeable manner than at the family devotions. But such resentments were momentary, and the equanimity of his temper was always speedily restored.

Mr. Justice Buller, one of the most learned lawyers that ever sat on the bench, was more eminent as a judge than as an advocate. It was, however, his extensive knowledge of law, displayed while at the bar, that attracted Lord Mansfield's attention, who, feeling his health and strength failing him, and anxious to have a colleague on whose judgment he might rely, recommended his elevation, although he had not attained his thirty-third year. He discharged his duties as a puisne judge in such a manner as to obtain the respect and regard of the whole profession. During the last two years of Lord Mansfield's life, the chief labours of the court devolved on him, and he was also on several occasions called on to preside in the Court of Chancery, whenever Lord Thurlow, from illness or state business, was compelled to absent himself. The indolence of Mr. Justice Ashurst, whose pupil he had been, left him without control in the rule of his court.—Lord Mansfield was anxious that Buller should have succeeded him, but the minister would not hear of the proposal, and appointed his own friend, Sir Lloyd Kenyon, to the vacant seat. After a few years, Buller was transferred to the Court of Common Pleas. When his health had become so far impaired as to render his withdrawal from general society a matter of prudence, he relinquished his house in Bedford-square, and retired to one he hired at Turnham Green. Here he was exceedingly annoyed at an ex-sheriff's-officer, who had made a little fortune in the practice of his profession, purchasing a plot of ground adjoining his garden, and thereto building a house. The judge, who did not particularly admire his neighbour, gave up his residence, and returned again to Bedford-square.

At an assize town on the Oxford circuit, Buller was once met by a Sheriff, who having been, as he said, "often fobbed off with serjeants instead of judges, in those parts, demanded whether his Lordship was a *bonâ fide* judge?" Being assured of the fact, he entered the carriage, but, contrary to etiquette, sat himself beside the judge on the back seat. Buller let him know his mistake, but courteously concluded his rebuke with an invitation to keep his seat. A story is told by Mr. Cradock of another sheriff,

who, during a *tête-à-tête* with his judge on a similar occasion, by way of promoting conversation, asked his lordship if he had gone to see the elephant at the last place. "Why, no, Mr. High Sheriff," he replied, "I cannot say that I did, for a little difficulty occurred; we both came into the town in form, with the trumpet sounding before us, and there was a point of ceremony to be settled, which should visit first."

It would be unjust towards the memory of this excellent man not to mention his kindness and consideration for the tyros of his court. Amongst others, Mr. Abbott, afterwards Lord Chief Justice Tenterden, received encouragement and assistance from him of the most substantial kind.

Lord Ellenborough is a fair specimen of that sturdy independent character which has always been held characteristic of the English judge. Although he has been charged with an occasional departure from the courteous bearing which should equally distinguish that character, no one—and, considering the foes his severity provoked, this is no mean praise—ever imputed to him either political corruption or unworthy subserviency to the biddings of prerogative. There is, perhaps, one instance of a contrary feeling. Mr. Whitbread accused him, together with his brother commissioners, Lords Erskine, Spencer, and Grenville, appointed in 1805 to inquire into the truth of certain allegations against the character of the Princess of Wales, of having tampered with the evidence. Lord Ellenborough, from his place in the House of Lords, denied the charge with his accustomed warmth. "My lords," he exclaimed, "I assert *the accusation is as false as hell*, in every part. . . . Such accusations are the offspring of a happy union of dulness and stupidity, aided by the most consummate impudence that was ever displayed."

He once presided on a trial of a horse cause in which a certain privy councillor was party. During the trial, the right honourable baronet took his seat on the bench, and ventured, in the course of the trial, to whisper an observation to the Chief Justice. "If you address me again, sir," exclaimed Lord Ellenborough, "I shall commit you to the custody of the Marshal." On one occasion a storm had driven a party of the Westminster Volunteers to take refuge in the hall. Hearing the clatter of the musketry, Lord Ellenborough called out, "Usher, what noise is that?" "Oh, my *lud*," said the usher, "it's only the Volunteers *exorcising*, my *lud*!" "*Exorcising!* are they; well, sir, we will see who is best at that. Tell the Volunteers, if they do not depart instantly, I shall commit them to the custody of the tipstaff!"

He used to be greatly annoyed during the season of colds with the noise of coughing in court. On one occasion, when the annoyances of this kind recurred with more than usual frequency, he was seen fidgeting about in his seat; and, availing himself of a slight cessation, observed, in his usual emphatic manner—"Some slight interruption one *might* tolerate, but there seems to be an *industry* of coughing!"

Mr. Espinasse has mentioned an application that was once made to the court to dispense with an immediate return to a writ of habeas corpus under particular circumstances. Lord Ellenborough replied, with a spirit worthy of one that sat in Gascoigne's seat, "Sir, I *dare* not do it!" Nothing could exceed the devotion he showed to the business of his court. Mr. Brougham asserted in the House of Commons that Lord Ellenborough had to dispose of a Guildhall paper, containing 588 causes—an Herculean task, but which he performed with his Herculean powers. Shortly before he retired, two of the puisne judges were in the habit of sitting for him by turns; but they showed none of the facility of their chief. Vexed at the arrears he saw accumulating, Lord Ellenborough, though his health and strength were fast failing, resumed his place in court, and in one sitting reduced the accumulation of arrears by seventeen causes.

One of the first declarations which he made after he had taken his seat as Chief Justice was, that as his feelings had been so often outraged by Lord Kenyon, when he filled that place, no one should ever have reason to complain that he had subjected them to similar treatment—and he kept his word. This, however, did not prevent his reproving counsel, and that severely, whenever he thought they were pressing objections wholly untenable, or pursuing a practice, more common in his than our days, mistaking a fact, or enlarging the terms of an affidavit. "I had believed," he would exclaim in an angry tone, "that every person with a gown on his back was a gentleman. The rule is discharged." He once observed to a counsel who appeared to attach much importance to small objections, "Sir, if you cannot elevate your mind above such trumpery objections, you will never rise in your profession." Mr. Chitty relates the following anecdote, which is usually understood to apply to himself. "A leading counsel gave up a point; but the junior so pressed the argument, that he almost incurred the displeasure of the then Lord Chief Justice Ellenborough for jejune and injudicious pertinacity; but, at length, Mr. Justice Bayley induced the Chief Justice to pause and hear the argument; after which, that distinguished chief, with

the candour which influences a great man, and is indispensable to the due administration of justice, publicly avowed that he had changed his opinion, and, with the other judges, decided in favour of the defendant; upon which the bar, with warmth and sincerity, congratulated the junior; and he has attributed much of his subsequent success in his profession to the result of that particular discharge of his duty." Although he had himself practised as a special pleader under the bar, he declared, when a judge, his disapprobation of the practice. "I confess," he said, "I always entertain strong prejudice against special pleaders called to the bar after long practice under it, because their habits appear to attach them too much to technical objections." His judgments were marked with great energy of thought and diction, and sometimes enlivened with the quaint humour which was characteristic of the man. It is said that a Quaker once came up to be examined before him who did not wear the broad brim and drab which are usually involved in the idea of a Quaker. The crier of the court, not knowing the witness's religious creed, put the book into his hand, and was about to administer the oath; but he refused to be sworn, and required that his affirmation should be taken. The crier appealed to the Chief Justice, who asked the witness if he were a Quaker. The witness replied he was. "Do you mean, sir, to impose upon the court," said Lord Ellenborough, "by appearing here in the disguise of a reasonable being?" The last important incident of Lord Ellenborough's judicial life was the part he took as presiding judge in Hone's trial for the publication of certain blasphemous parodies. At this time he was suffering from the most intense exhaustion, and his constitution was sinking under the fatigues of a long and sedulous discharge of his important duties. This did not deter him from taking his seat upon the bench upon the occasion. When he entered the court, previous to the second trial, Hone shouted out, "I am glad to see you, my Lord Ellenborough. I know what you are come here for. I know what you want." "I am come to do justice," replied his lordship. "My wish is to see justice done." "Is it not rather, my lord," retorted Hone, "to send a poor devil of a bookseller to rot in a dungeon?" In the course of the proceeding, Lord Ellenborough more than once interfered. Hone, it must be acknowledged, with less vehemence than might have been expected, requested him to forbear. The next time his lordship made an observation, in answer to something the defendant urged in the course of his speech, Hone exclaimed in a voice of thunder, "I do not speak to u, my lord—you are not my judge—these (pointing to



the jury) these are my judges, and it is to *them* that I address myself." Hone revenged himself on what he esteemed the Chief Justice's partiality—he wounded him where he could not defend himself. Arguing that St. Athanasius was not the author of the creed that bears his name, he cited, by way of authority, passages from the writings of Gibbon and Warburton to establish his position. Fixing his eyes on Lord Ellenborough, he then said, "And further, your lordship's father, the late worthy Bishop of Carlisle, has taken a similar view of the same creed." Lord Ellenborough could not endure this allusion to his father's heterodoxy; it was in a broken voice he exclaimed—"For the sake of decency, forbear!" The *request* was immediately complied with. The jury acquitted Hone—a result which is said to have killed the Chief Justice; but this is hardly probable. That he suffered in consequence of the trial is certain. After he entered his private room, when the trial was over, his strength had so far deserted him, that his son was obliged to put on his hat for him. But he quickly recovered his spirits; and on his way home, in passing through Charing Cross, he pulled the check-string, and said, "It just occurs to me that they sell here the best herrings in London—buy six."\* Indeed, Dr. Turner, afterwards Bishop of Calcutta, who accompanied him in his carriage, said that, so far from his nerves being shaken by the hootings of the mob, Lord Ellenborough only observed that their saliva was worse than their bite. As a criminal judge, he was reputed severe. Dining one day at an assize dinner, some one offered to help him to some fowl. "No, I thank you," said his lordship; "I mean to *try* that beef." "If you do, my lord," said Jekyll, "it will be *hung* beef."

A great *bon vivant*, finding his brother, then Bishop of Chester, was about giving a grand dinner-party, he sent him a turtle and a cook, saying that he knew his brother too well to suppose he had anybody in the palace competent to dress a turtle—he therefore had sent a proper person to perform the operation. He would never suffer his lady to interfere in the remotest degree with the arrangements of the *cuisine*, affirming that it was impossible that women could know anything about the matter.

In returning from a continental tour, Lady Ellenborough

\* The celebrated Lord Granville used to relate an anecdote somewhat similar of Lord Peterborough, who "conquered Spain." One day, after the noble general had received the thanks of the House of Lords for his eminent services, he drove from Westminster to a celebrated poulterer's shop, to buy a fowl for his dinner!

smuggled, unknown to her husband, a variety of French goods. The revenue officers received information of this, and stopped the Chief Justice's coach in the Dover-road. Lord Ellenborough indignantly denied that any smuggled goods were secreted in his carriage: the officers, however, insisted on searching it, and, to the horror and amazement of the unconscious functionary of the law, drew forth sundry rolls of lace, packets of gloves, and frippery of various kinds, which at once justified their suspicions, and rewarded their industry.

Sir James Mansfield succeeded Lord Eldon in the Chief Justiceship of the Common Pleas. He was a good lawyer, and possessed many of the qualities of a good judge; but his digestion and temper becoming impaired towards the close of his career, he would sometimes so conduct himself as proved he could forget the dignity which belonged to his office. Were a cause called on a short time before the court's rising, he would petulantly inquire "whether it would last much time;" and, if it extended beyond the hour of dinner, he would make his impatience audible by many a half-suppressed exclamation of annoyance. These, however, are petty matters. No one showed a more anxious desire that every matter before him should be despatched as quickly as might be, and that real justice might be done to all parties.

The following absurd case once came before him. A Mr. Hussey, dining in Furnival's Inn Hall with Mr. Crickett and several other gentlemen, bet Mr. Crickett a rump and a dozen that he was the elder of the two. The bet was made in May, and nothing further was done until some of the parties meeting again in the same place, in the June of the following year, agreed that each should name a friend to appoint a day for deciding the bet and ordering the dinner. The nomination took place as agreed on, and the nominees fixed the day, and ordered the dinner. When the day appointed arrived, it was found that Hussey, the plaintiff, was six years younger than the defendant, who had notice of the dinner, but did not appear. The bill was paid, and an action brought to recover the amount. "I do not," said Mansfield, "judicially know the meaning of 'a rump and a dozen.'" This difficulty was soon got over by the evidence of witnesses. Mr. Justice Chambre observed, "It is neither uncertain nor illegal: the witnesses here explained a rump and dozen to mean a good dinner and wine; and this is sufficiently certain."—Mr. Clifford—of O P notoriety—once brought an action for false imprisonment against the box-keeper of Covent Garden theatre, by whose directions, during one of the riots there, he

had been given into custody, and brought before a magistrate, who, not thinking the evidence sufficient, discharged him. There being but little doubt that Clifford had caused the riot, and there being no doubt that the box-keeper had acted under a very natural suspicion, Mansfield, before whom the action was tried, summed up strongly in favour of the defendant. So confident was he of the verdict of the jury, that he took the opportunity of their absence to admonish the audience of the impropriety of the conduct which had been pursued towards the theatrical manager, and cautioned them against the consequences of a recurrence of such scenes as had lately taken place—"scenes," he added, "which tend to disturb the public peace, and which will be now pronounced by the verdict of a just, impartial, and enlightened jury equally unjustifiable, and subject to correction of no trifling character." Scarcely had he ended his reproof, when the jury re-appeared, and *delivered a verdict for the plaintiff, with damages!* The Chief Justice looked thunderstruck. He inquired of the foreman whether the jury had come to such a verdict, from a belief that Mr. Clifford was not arrested until he was out of the theatre? The foreman replied—"The jury don't think it consistent with the rights of Englishmen to punish a Briton for distributing placards or wearing a riband in his hat." Mansfield gazed for a moment on the audacious jury, shook his wig, and left the court hastily and in silence. Sir James Mansfield was driven from the bench by the repeated attacks of Mr. Serjeant Best. Old and feeble, he had no longer any power of checking the proud spirit of his "brother,"—and, therefore, surrendered his place to him. Mr. Serjeant Pell, however, revenged the poor old judge.

Lord Tenterden was the son of a barber at Canterbury, whose house stood on the left-hand side of the western entrance to the cathedral, and who has been described as "a tall, erect, primitive-looking man, with a large club-pigtail behind him, and the instruments of his business under one arm, attended frequently by his son, the present (late) Chief Justice—a youth as decent, grave, and primitive-looking as himself." He received his education at Canterbury school. "I well remember him at school," says an old school-fellow—"grave, silent, and demure; always studious and well-behaved; reading his book instead of accompanying us to play, and recommending himself to all who saw and knew him, by his quiet and decent demeanour. I think his first rise in life was owing to a boy of the name of Thurlow, an illegitimate son of the Lord Chancellor, who was at school with us. Abbott and this boy were well acquainted; ar-

when Thurlow went home for the holidays, he took young Abbott with him. Abbott thus became acquainted with Lord Thurlow, and was a kind of helping tutor to his son; and I have always heard, and am persuaded that it was by his lordship's aid that he was afterwards sent to college. The clergy of Canterbury, however, always took great notice of him, as they knew and respected his father." Lord Tenterden never displayed any false shame on the subject of his parentage;—indeed, not long before his death, being at Canterbury with his eldest son, he visited the former insignificant dwelling of his father, and pointed out to him, with evident satisfaction, the scene of his early years. It has been said also, that when on the Home Circuit, he accompanied Mr. Justice Richards in a visit to Canterbury Cathedral. After attending the morning service, Mr. Justice Richards made some remark on the voice of one of the singing-men. "Ah," said Lord Tenterden, "that's the only man I ever envied. When we were at school in this town, we were candidates together for a chorister's place, and he obtained it." He went to Oxford,\* where he obtained a fellowship, and for some time resided at the University as college tutor. He obtained the prize for Latin verses, in the year 1784, having failed the preceding year. Upon the former occasion, the successful candidate was the Rev. W. L. Bowles, then a scholar at Trinity, and whom not long before his death he met at Salisbury: and on hearing his name, he immediately adverted to the literary contest, in which he had been vanquished nearly forty years previously. It is not a little remarkable, that at the same period there were, at the same University, three men destined to preside in the three superior courts of this kingdom, in which the equity, the canon, and the common law is administered: John Scott, afterwards Lord Chancellor—William Scott, afterwards Judge of the Prerogative and Admiralty Courts—and Charles Abbott, afterwards Lord Chief Justice of the Court of King's Bench. Amongst Abbott's pupils was a son of Sir Francis Buller, through whom he became acquainted with that eminent judge. Buller was much struck

\* After he had become Chief Justice, he was appointed a trustee of Canterbury School. At one of the meetings which he attended, an application was made by an exhibitor at the university for an increase of his stipend. An inquiry was made for precedents, and only one could be found, which had occurred many years before. "That student was myself," said Lord Tenterden, and immediately volunteered to pay the amount petitioned for out of his private purse.

with Abbott's industry and talents, and advised him to try his fortune at the bar. This he did; and by the advice of his patron, submitted to the drudgery of attending for some months at the office of Messrs. Sandys and Horton, eminent solicitors in Craig's Court. Afterwards he became a pupil of Mr. Wood, a special pleader, and subsequently a baron of the Exchequer. When at the bar he was fortunate enough to attract the notice of Lord Ellenborough, who endeavoured to force him into notice. But his business, although considerable, was not of that kind which confers general notoriety. Much of his income was derived from giving opinions on cases. It was a maxim with him that, after attending long enough to be acquainted with the routine, a barrister who had nothing to do had much better be at home in his chambers than dawdling in court.\* He received much emolument in his capacity as *treasury devil*—as the functionary is called who acts as *flapper* and assistant to the Attorney-General. His profits at the bar have been variously stated at eight and ten thousand a year. The smaller sum is most likely the nearest approximation to the truth.

As a judge, Lord Tenterden did not display any abilities which deserve a higher character than "*respectable*." Although trained in the strictest school of special pleading, he always showed a reasonable desire to reconcile the claims of justice with the requisitions of law. In effecting this laudable purpose, he found the value of those habits of discrimination and subtle reasoning which usually distinguish men practised in the niceties of special pleading; and was thus enabled, in every case brought before him, to detect at once the true point at issue, and to discover whenever counsel were wandering into extraneous matter. This he never would tolerate; but his reproofs sometimes savoured more of the authority of the pedagogue than the dignity of the judge.† But still—and this we hold his great merit—

\* On this point "doctors differ." Sir William Garrow seems to have thought the court was the best place for a barrister who had nothing to do in his chambers.

† We have heard that in his manners, even in private life, something of the precise and formal habits of the pedagogue might be detected. One day, while entertaining the barristers of his circuit at his table, he asked a magistrate who was present, if he would take some venison. "Thank you, my lord," was the reply, "I am going to take some boiled chicken." "That, sir," testily answered the Chief Justice, "is no answer to my question. I ask you again, if you will take some venison, and I will trouble you to say 'yes,' or 'no,' without further prevarication!"

he was enabled to dispatch the business of his court with a facility and quickness never before equalled, and never since surpassed. If he was at times intolerant of the peccadilloes of gentlemen of the long robe, he still showed tolerance of the stupidity and often unintentional prevarication of the stupid country clowns whose evidence he was compelled to take down. In truth, Lord Tenterden had much good humour, but no dignity; and if he never, like some on the bench, committed himself in a *fracas* with counsel, it was because his own natural kindness precluded such a thing—considerations of his high place certainly never checked him. When Hone was tried before him for blasphemy, Lord Tenderden treated him with great forbearance; but Hone, not contented with the indulgence, took to vilifying the judge. "Even in a Turkish court I should not have met with the treatment I have done here," he exclaimed. "Certainly;" replied Lord Tenterden, "the bowstring would have been round your neck an hour ago."

He had been strongly advised, some time before his death, not to attend his court; but he replied, "I have public duties to perform; and while it pleases God to preserve my mental faculties, I will perform those duties—physical suffering I can and will bear!" A little more than a week before his death, he was told were he to continue to set the advice of his medical attendants at defiance, it was impossible he could live; but that a little rest and retirement would restore him to comparative health. "I knew better," he replied: "my days are numbered; but I will perform my duty to the last." The following occurrence is stated to have happened previous to his death. He had been sinking the whole night, but generally retained his faculties. Towards morning he became restless and slightly delirious; all at once he sat up in his bed, and with a motion of his hand, as if dipping his pen in the inkstand, as he had been accustomed to do on the bench, said distinctly, "Gentlemen of the jury, you are discharged." He then fell back in his bed, and almost immediately expired!

## CHAPTER V.

## LAWYERS IN PARLIAMENT.

It has been recorded that, in a debate in the House of Commons on the commercial treaty of 1713, when Sir Richard Steele rose to speak, several members cried out, "Tatler! Tatler!" and when he went down the house afterwards, several members were heard to say, "It is not so easy a thing to speak in the house; he fancies, because he can scribble, he is fit to play the orator." This circumstance, as Lord John Russell remarks, shows the natural envy of mankind towards those who attempt to obtain more than one kind of pre-eminence. For it is, indeed, more often envy than prudence which has warned the cobbler not to go beyond his last, and has declared that one branch of knowledge is enough to exhaust all the energies of the human mind.

The House of Commons, it has been said, is strewn with the wrecks of the reputations of eminent lawyers. And the fact is so. But with the wrecks of the reputations not *only* of eminent lawyers; brave generals, accomplished diplomatists, the practical statesman, the scientific speculator, the profound philosopher, the glory of our literature, the pride of our commerce, have severally, and in instances not infrequent or obscure, sullied their laurels, and diminished their fame, by their failures in parliament.

The secret of success in the House of Commons Lord Abinger well explained, in a letter to Mr. Robert Mackintosh. He says—"Whatever may be the advantages derived from the division of political men into parties, it is obvious that it must have an important influence upon the character of the debates in that assembly. The result of each discussion, and even the exact numerical division, being upon most important questions known beforehand, the speakers do not aim so much at conviction, as to give satisfaction to their respective parties, and to make the strongest case for the public. Hence a talent for exaggeration, for sarcasm, for giving a dexterous turn to the events of a debate, is more popular and perhaps more useful than the knowledge which can impart light, or the candour which seeks only for justice and truth. It is the main object of each party to vindicate itself—to expose the antagonist party to indignation and contempt. Hence the most successful speaker, that is, he who is heard with the greatest pleasure, very often is one who abandons the point of debate altogether, and

singles out from the adversary some victim whom he may torture by ridicule or reproach; or lay hold of some popular party topic, likely to point the public indignation against his opponents, or to flatter the passions of his adherents. Many of the speeches are not, in effect, addressed to the supposed audience, but to the people; and consequently, like scene-painting, which is to be viewed at a distance, and by the unskilful, are more remarkable for the boldness of the figures and the vivacity of the colouring, than for nature or truth. It is not the *genus deliberativum*,\* but the *genus demonstrativum* of eloquence, that is most successful in the House of Commons."

It is for these reasons that so many who have acquired high reputation in other pursuits have altogether failed in parliament. Addison, all versed in literature, and so familiar with the oratorical remains of the ancients, is known to have been unable to conclude a speech that he had begun, and we have seen in our own times one of the most accomplished of our diplomatists, a great statesman, who with a powerful intellect possessed a most refined taste, scarcely able to convey in intelligible language his opinions or sentiments. Parliamentary failure has been the fate of others besides lawyers.

The reason that more attention has been directed to the failure of great lawyers in this arena, than of other people, arises from the fact, that few lawyers enter the house without being preceded by a high reputation, if not for positive eloquence, at least for a dexterous use of their learning and powers, acquired in other fields, and directed to other objects. High expectation is thus excited, which is scarcely ever realised. No small proportion of clever men in this country have had to bewail "*the curse of a reputation*:" a curse indeed it is, as it often proves their ultimate ruin. It is well known that Canning originally belonged to the Whig party, and was to have been brought into parliament under their auspices. When some observation was made on Mr. Jenkinson (afterwards Lord Liverpool), a very young man, who had just then been introduced by the Tories, Sheridan rose and said, "that his friends too in that house would be able to boast a youthful supporter, whose talents and eloquence would not be inferior to those of the *élève* of the ministry." It is said that Sheridan at this time knew that Canning was no longer with his party, and thus chanted his praises only to awaken expectations that he trusted might disconcert the youthful aspirant when he should take

\* "The *genus deliberativum* is for the senate; the *genus demonstrativum* is conversant with praise and blame." Cic. De Invent.



his seat. Erskine's high reputation at the bar was the cause of his failure in the house. Lord Thurlow, who succeeded in making a great impression in the house, is always thought to have done so because his reputation as a lawyer had not preceded him. It is not to be denied, however, that the *habits* of forensic oratory do not qualify, or rather do in some degree disqualify, an individual for success in parliament. Wit and humour, so foreign to the severe reasonings and close deductions to which the lawyer habituates himself, are the prime elements of success in the House of Commons. When somebody asked Sheridan how it was he succeeded so well in the house, he replied, "Sir, I had not been there very long before I found three-fourths of the members were fools, and the whole loved a joke. I resolved, therefore, not to shock them by too much severity of argument, and to amuse them by a sufficient quantity of humour. This is the whole secret of my success."

Charles Townsend, who is described by Burke as one of the most effective speakers of his day, was renowned for his wit; a quality in which Lord North and Charles Fox were equally pre-eminent. When Boswell told Dr. Johnson that he had been retained to oppose a road bill at the bar of the House of Commons, and asked him in what way he could make the best impression on that assembly, Johnson replied, "Why, sir, you must provide yourself with a good deal of extraneous matter, which you are to produce occasionally, so as to fill up the time; for you must consider that they do not listen much. If you begin with the strength of your cause, it may be lost before they begin to listen: when you catch a moment, press the merits of the question upon them." Mr. Wilkes' advice was something similar. "Be as impudent as you can, and as merry as you can, and say whatever comes uppermost." "You must not," said Johnson to Boswell, on another but similar occasion, "argue as if you were arguing in the schools; close reasoning will not fix their attention; you must say the same thing over and over again in different words. If you say it but once, they miss it in a moment of inattention."

Now, for such a style of oratory as this, the habit of addressing a court of law forms, most certainly, no preparation. To this habit allusion is made, when it is said of certain members of parliament that they forget they are not in Westminster Hall. Even Lord Hardwicke, who was an able and effective speaker, always betrayed his profession whenever addressing the House of Lords. "He never could," says Lord Chesterfield, "divest himself of the pleader." Lord Erskine, in commenting on Burke's ora-

tory, censures that great man for a fault, the precise converse of that which characterises the parliamentary eloquence of the lawyer. "A public speaker," he says, "should be episodic; it is a very great mistake. I hold it a rule respecting public speaking, which ought never to be violated, that the speaker should not introduce into his oratory insular brilliant passages; they always tend to call off the minds of his hearers, and to make them wander from what ought to be the main business of his speech. If he wishes to introduce brilliant passages, they should run along the line of his subject-matter, and never quit it. Burke's episodes," he adds, "are highly beautiful; I know nothing more beautiful; but they were his defects in speaking." Although, in a critical point of view, these are faults which Lord Erskine thus censures, yet they are faults which it is necessary to incur to a certain extent in addressing a public body. To present to a great number, especially of the House of Commons, a strictly logical statement, would be useless for the purposes of persuasion. Undoubtedly, however, mere brilliant displays are to be avoided, those figures and metaphors which, as Lord Brougham observes, may be likened rather to fireworks thrown up for display, than sparks emitted from a working engine.

The absurd adherence to mere formalities, which has been often objected against lawyers, is, perhaps, the charge to which they are the most justly obnoxious. It was probably on this account that Swift observed that they, "of all others, seem least to understand the nature of government in general;" and induced the author of the *Pursuits of Literature*, to declare that

In state affairs all barristers are vain.

In a debate in the House of Commons, in 1764, on the subject of Wilkes' arrest by a general warrant, Sir Charles Sewell, Master of the Rolls, who usually sat in the house in his bag-wig, when a motion was made for an adjournment of the question for three days, said, "that such an adjournment would enable him to look into the authorities, and give a decided opinion on the subject which he was, at present, unable to do." The adjournment was carried, and when the debate was resumed after it, he said, "that he had, that morning turned the whole matter over in his mind as he lay upon his pillow, and, after ruminating and considering a great deal, he could not help declaring that he was of the same opinion that he was before." Upon this Charles Townsend started up, and exclaimed, "that he was very sorry to observe that what the right honourable gen-

tleman had found in his night-cap he had lost in his periwig!"

The practice of the law is not altogether—certainly, unless corrected by other studies—favourable to the promotion of those comprehensive and liberal views which should characterize the statesman. "Whilst it sharpens the edge it narrows the blade," as Coleridge observes. Sir James Marriott, an Admiralty Judge, in addressing the House of Commons on the question of American taxation, declared, "that it appeared to him that the matter had been mistaken throughout the whole argument. It had been contended that America should not be taxed, because she was not represented. But the assertion is untrue, seeing that, when we took possession of America, we did so *as part and parcel of the manor of East Greenwich, in the county of Kent.*"

We find in the speeches of our early lawyers the same fondness for scriptural illustration which distinguishes their writings. In opposing a bill for making the utterance of treasonable words punishable as treason, Serjeant Maynard, after insisting generally upon the policy of adhering to the principles of the 25 Edward III., by which an overt act was made the proof of ill intentions, went on to meet the objection which it seems had great weight in those days, that out of the abundance of the heart the mouth spake. He remarked, in reply, how easily words could be misunderstood—how easily might our Saviour's words "Destroy *this* temple," have been mistaken for "Destroy *the* temple;" and the learned serjeant, to prove the matter, pronounced the words in Syriac. "Nothing," he continued, "was more innocent than these words, as our Saviour meant and spoke them; but nothing was more criminal than the setting of a multitude to destroy the temple." This argument is said to have made some impression on the house. Sir Dudley Ryder, when Attorney-General, in alluding to a bill for preventing clandestine marriages, which had been supported by the bishops, and which dissolved certain marriages for temporal reasons, eulogised, in the highest terms, the right reverend bench, "who had," as he expressed it, "at last reduced Christianity to a system." This called down upon the speaker's head several severe comments, which compelled him to explain.

In respect to the favourite practice of illustrating parliamentary questions by a reference to Scripture, the extraordinary speech of Sir John Scott, afterwards Lord Eldon, against Fox's East India Bill, will occur to the mind. In this, he drew a parallel between the bill and the beast in the Revelations, "And I stood upon the sand

the sea, and saw a beast rise up out of the sea, having seven heads and ten horns, and upon his horns ten crowns." The beast, according to Mr. Scott, with the seven horns, clearly pointed to Mr. Fox with his seven commissioners. "And they worshipped the dragon which gave power unto the beast, saying, Who is like unto the beast? Who is able to make war with him? And there was given unto him a mouth speaking great things, and power was given unto him to continue forty and two months." "There," said Mr. Scott, "I believe there is a *mistake* of two months!" "And he caused all, both small and great, rich and poor, to receive a mark in their right hands, or in their foreheads." "Here places, peerages, and pensions, are clearly marked out." "And he cried mightily with a strong voice, saying, Babylon the Great" (plainly the East India Company) "is fallen, and is become the habitation of devils, the hold of every foul spirit, and the cage of every unclean bird." After this he quoted a passage from Thucydides, and then repeated the passage in Othello,

Kill me not to-night, my lord,  
Let me live but one day, one hour.

Sheridan, however, retorted on Scott with much effect, quoting other passages from the same book, which, according to the reporter, "told strongly for the bill," and which proved that Lord Fitzwilliam and his fellow-commissioners, instead of being the seven heads of the beast, were seven angels "clothed in pure and white linen."\*

On the same occasion Mr. Arden (the Lord Alvanley of after days), indulged in raillery less profane, but hardly more effective. He declared "that he regarded Lord North as a king, and the right honourable gentleman (Mr. Fox) as an emperor, the emperor of the East. The seven commissioners also might be considered as seven emperors, seven holy Roman emperors, tributary and subordinate to the Emperor of the East." When the bill had been read a third time, the Secretary for the Treasury moved the insertion of the usual clause (accidentally omitted) that the act should be considered as a public act. Arden immediately got up and protested that he did not wonder this clause had been forgotten, for he had always looked on the measure as a *private job*. It has been recorded that "Hot Arden once blundered on a joke," which line in the Rolliad is thus ex-

\* Scott, however, addressed the house with so much vigour on the Regency Bill, that both North and Fox regretted that they could not speak immediately after him to obliterate the impression his speech made on the house.

plained in a note :—"The miracle of a jest from Mr. Arden happened on the occasion of some resolutions having passed between the hours of six and seven in the morning, for which reason the Attorney-General facetiously contended that they were entitled to no respect, 'as the house was then at sixes and sevens.'" Sheridan might have addressed him in the language which he once applied to a certain noble lord, more remarkable for gravity than sense, "Pray, my lord, take care; a joke in your mouth would be no joke indeed!"

Erskine's career in Parliament greatly disappointed his friends and the world, who expected great things from the brilliant advocate. The first time "when he rose in the House of Commons," says Mr. Espinasse, "he was received with marked attention, and expectation was high in every part of the house. It was a total failure. Mr. Pitt had prepared himself to take notes of his speech, and had leaned forward, as if to catch every word which fell from him. After listening to him for a few sentences, he flung the paper, on which he had prepared to take notes, on the ground with a look of lofty supercilious contempt so peculiarly his own. Erskine was of the party opposed to him, and it was said to be a *ruse de guerre* to lower the estimation in which his talents were held." Lord Brougham's observations on Erskine's parliamentary career are too important to be omitted. "It must be admitted," says he, "that had he appeared in any other period than the age of the Foxes, the Pitts, and the Burkes, there is little chance that he would have been eclipsed even as a debater; but he never appears to have given his whole mind to the practice of debating, and possessed but a very scanty provision of political information. Earlier practice, and more devotion to the pursuit, would, doubtless, have vanquished all these disadvantages; but they sufficed to keep Mr. Erskine in a station far beneath his talents, as long as he remained in the House of Commons."

Lord Mansfield furnishes unquestionably the strongest evidence against the alleged incompatibility of forensic acquirements with that species of eloquence necessary to success in the House of Commons. He was not only one of the most eloquent speakers—he was also the ablest debater of his day; and if not the ostensible, at least the actual leader of the ministerial party. He was the only leading member upon whom the Duke of Newcastle, then at the head of the ministry, could rely. So much importance did the opposition attach to silencing Murray, that the celebrated Pitt (afterwards Earl of Chatham) himself undertook the task; but we are told by Lord Waldegrave, who will not be sur-

pected of any prepossession towards Murray, that he had greatly the advantage over Pitt in argument, and in every other part of oratory, except abuse. Horace Walpole, in detailing the debates in which these statesmen came into collision, says "Pitt could only attack—Murray only defend." Speaking of the three great speakers of the day, Murray, Pitt, and Fox, Walpole says—"Murray, the brightest of the three, had too much and too little of the orator; he refined too much, and could wrangle too little for a popular assembly." In the character of Lord Chatham, attributed to Mr. Grattan, the distinctive peculiarities of the two great rivals are set in a clear light. "Chatham did not, like Murray, conduct the understanding through the painful subtleties of argument, but rather *lightened* upon his subject, and reached the point by the flashings of his mind, which, like his eye, could be felt, but not followed."

This expresses with tolerable accuracy the peculiar defect that attaches to lawyers when addressing a body like the House of Commons. All Murray's superiority of argument availed him little in his contests with Pitt. In detailing a debate in the House of Commons at this time, Lord Waldegrave says—"Pitt rose again; he made his inferences as before, and in both speeches every word was Murray. . . . I sat next to Murray, who suffered for an hour." Upon one occasion, while Pitt was speaking, Murray, who knew his turn would soon come, sat in a state of suffering for some time. At length, Pitt paused, and fixing his eyes on his victim, said, "I must now address a few words to Mr. Solicitor—they shall be few—but they shall be daggers." Murray was agitated—the look was continued—the agitation increased—"Judge Festus trembles!" exclaimed Pitt. "He shall hear me some other day." He sat down—Murray made no reply, and a languid debate is said to have shown the paralysis of the House.\*

So great did Murray show himself in parliament, that the ministry displayed no inclination to part with him. When the Chief Justiceship became vacant by the death of Sir

\* The animosity which Pitt exhibited towards Murray survived the altered circumstances that saw them both in the House of Lords. In a debate upon the subject of Mr. Wilkes and the Middlesex election, Lord Chatham quoted the opinions of Lord Somers and Chief Justice Holt in support of the position he was endeavouring to establish; he then sketched their characters, declaring that they possessed "not only abilities; but honesty." Then turning towards Lord Mansfield, he exclaimed—"I vow to God, that the noble Lord equals them—in abilities!"

Dudley Ryder, Murray naturally expected to have been appointed to it. Offer after offer was made to induce him to continue in the House of Commons. He was offered the Chancellorship of the Duchy of Lancaster for life, with a pension of £2000 a-year; permission to remain Attorney-General (worth, with the private practice it brought, £7000 a year), and the reversion of the first tellership of the Exchequer for his nephew, Viscount Stormont. He refused this offer—reminding the ministers of his repeated declarations, that he would receive no appointment not connected with his profession. Hoping to subdue his obstinacy by raising their biddings, they offered him a pension of six thousand (instead of two thousand) a-year—they implored him to stay but one month, nay, only one day, to meet their enemies in the House of Commons. “Good God,” he exclaimed, “what merit have I that you should load this country, for which so little is done with spirit, with an additional burthen of six thousand a-year.” Finding, however, they still were not disposed to comply with his wishes, he intimated his intention of resigning the Attorney-Generalship, and leaving them to fight their battles as they could. This was sufficient, and he was immediately appointed. When Charles Townsend heard of Murray’s intended elevation, he said to him “I wish you joy; or rather I wish myself joy, for you will ruin the Duke of Newcastle by quitting the House of Commons, and the Chancellor, by going into the House of Lords.” And so it proved; eleven days after Murray was raised to the bench the ministry resigned. In the House of Lords, Lord Mansfield appeared to great advantage. His classic and elegant oratory appeared to a far greater advantage in that aristocratic assembly than it had done in the tumult and conflicts of the Lower House. Not only did he there display the qualities of a great orator, but the wisdom of an enlightened statesman. The following anecdote would lead us to believe that his powers of political foresight were considerable.

“During the autumn of 1788,” says Wraxall,\* “when Hastings’ trial had already proceeded during a whole session in Westminster Hall, Sir John Macpherson drove out before dinner to Caen Wood, in order to pay his respects

\* It has been the fashion to impugn the accuracy of Sir Nathaniel Wraxall’s memoirs; we believe them to be in general accurate, in spite of the waggish epigram on the garrulous old baronet:—

“Men, measures, seasons, scenes, facts all,  
Misquoting, misstating,  
Misplacing, misdating,  
Here lies Sir Nathaniel Wraxall.”

to the great Earl of Mansfield. That nobleman was then more than eighty-three years of age, infirm in body, and sinking in health, but still retained all the freshness as well as the vigour of his intellect. 'I found him,' said Sir John, 'sitting before the door in front of his house, and by no means free from bodily pain. He received me with the utmost politeness, conducted me into his library, where he walked up and down, conversed with me on the leading events of the day, and at last asked what was my opinion of Pitt. I replied, that I considered him as a great minister.' 'A great minister!' exclaimed Lord Mansfield, 'a great young minister you mean, Sir John; what did he intend by impeaching Mr. Hastings, or suffering him to be impeached?' 'He meant,' said I, as I apprehend, to let justice take her course.' 'Justice, sir,' rejoined Lord Mansfield, 'pray where is she?' 'If you, my lord,' returned I, 'don't know where to find justice, who have been dispensing her favours these fifty years, how can any man attempt it?' 'Yes, sir,' answered he, 'that is justice between man and man. All which is thus done, is well done. It is terminated. *Criminal* justice I can comprehend. But *political* justice, where is she? what is she? what is her colour? Sometimes she is black, sometimes she is red too. No, Sir John, Mr. Pitt is *not* a great minister. He is a great young minister. He will live to repent allowing Mr. Hastings to be impeached. He has made a precedent which will some future day be used against himself. Mr. Pitt is only a great young minister.' The impeachment of Dundas, Pitt's intimate friend and trusty coadjutor, soon proved that the old Earl had prophesied right.

Law, afterwards Lord Ellenborough, was another instance that parliamentary and forensic abilities are by no means incompatible, and he was a remarkable instance, as he never had the advantage of any parliamentary training—having entered parliament as Attorney-General, and being therefore compelled at once to take a prominent part in debate. He was also in his fifty-first year—an age when men are usually considered past learning, and yet, with all these disadvantages, the energy of his character soon earned for him the reputation of an able and useful member. When he attended the levee after his appointment, the King said to him, "Mr. Law, have you ever been in parliament?" He replied that he had not. "I am glad to hear it: my Attorney-General ought not to have been in parliament, for then, you know, he will not be obliged to eat his own words." Vigour, which sometimes degenerated into coarseness, was the characteristic of his oratory. In a debate on

Regency question, he observed, that in the reign of



Henry VI. the revenues of the Duchy of Lancaster were under the control of the King, and when some one remarked that the law was shortly afterwards changed—"Ay," said the Attorney-General, "in times of trouble. Honourable gentlemen opposite seem well versed in the troubles of their country." There was a loud cry of "order," from the opposition. In the House of Lords he displayed a spirit fierce and intemperate. In the discussion in the Lords respecting the compensation given by Pitt to the Duke of Athol, for the sovereignty of the Isle of Man, Lord Ellenborough used language unworthy the noble assembly he was addressing. Lord Mulgrave reproved him in a dignified tone reminding him "that he was addressing peers, not lawyers—the House of Lords, and not the mob in Palace Yard." His quaint and caustic humour often, however, excited in the house feelings of another kind. Lord Darnley was once making a dull and drowsy speech on Ireland and her wrongs, which lulled the House to "soft repose." At length the noble orator, beginning himself to share in the languor of the House, stopped short in his address to indulge himself in a yawn. "There's some sense in that," grimly observed Lord Ellenborough, amidst the laughter of all around.\*

Lord Thurlow was an able speaker in the House of Commons, and made considerable impression on that assembly very shortly after he took his seat. "His majestic sense," has been commemorated by Gibbon; but such a phrase conveys but a faint conception of the forcible declamation and irresistible eloquence of this great man. For a lawyer, he had less of the lawyer apparent in his speaking than is often found; rather powerful than subtle, less persuasive than convincing, more vehement than argumentative, he was especially fitted to shine in that arena of angry contention, where to interest the feeling and awaken the sympathies is rather the task than to direct the judgment and secure the reason; where men strive rather to strengthen and gratify their own party, than to convert their opponents. However, on one occasion, when Thurlow opposed a bill introduced by Alderman Beckford, which imposed on every member of the House of Commons, before he took his seat, an oath, that neither directly nor indirectly he had been guilty of bribery, he appears to have treated the

\* When Attorney-General, he was listening with impatience to the prosy judgment of a loquacious judge, who said, "In — v. — I ruled so and so." "You ruled!" growled the Attorney-General, "you ruled. You were never fit to rule anything but a copy-book."

matter in more of a legal spirit than was usual with him. "The honourable member," said Beckford, in replying to him, "in his learned discourse, first gave us one definition of corruption, then he gave us another, and I think was about to give us a third. Pray does the honourable gentleman suppose that there is a single member of this house that does not know what corruption is?"

Wedderburne, afterwards Lord Loughborough, was another instance of a lawyer succeeding in the House of Commons. He began in the opposition, and one of the first individuals with whom he came into collision was the Attorney-General, De Grey, to whose seat on the bench of the Common Pleas he subsequently succeeded. De Grey had concluded a speech, in which he had advocated the maintenance of things *as they are*, with quoting the lines—

Better to bear the ills we have,  
Than fly to others that we know not of.

Wedderburne, in commencing his reply, continued the quotation, which told directly against his opponent—

And thus the native hue of resolution  
Is sicklied o'er with the pale cast of thought;  
And enterprises of great pith and moment  
With this regard their currents turn awry,  
And lose the name of action.

Upon another occasion, in speaking of the benefits and disadvantages of a free press, he said, "If it poisons the minds of the people, it likewise administers an antidote. The same waggon, the same flys and stages that carry down into the country the lies and abuse of faction, carry down also the lies and abuse of the ministry. If any one is bit by the tarantula of opposition, he is cured by the music of the court."

Lee (Attorney-General in one of Fox's administrations), a coarse, violent, but able man, in addressing the house in support of the East India Bill, determined to prove that, although a lawyer, his mind was shackled with no vulgar prejudices: for indulging, as was his habit, in a strain of rough blustering invective, he declared that he felt the utmost scorn of those arguments that had been based on the inviolability of the Company's charter; "for what is this same charter," he added, "but a skin of parchment, to which is added a seal of wax?" This imprudent speech made a most unfavourable impression on the house, and involved the supporters of the measure in much unpopularity. Insolent assertion, however, was Lee's favourite style of oratory. When he used to appear as a counsel at the bar

of the house, Wilkes said of him, "Jack Lee is the best heard there of any counsel, and he is the most impudent dog."\*

Sir Samuel Romilly, a name dear to the philanthropist, was remarkable for his capabilities as a speaker. One passage of his speech on the abolition of the slave trade was so greatly admired as to have elicited three distinct cheers from both sides of the house. A striking peculiarity of this great man is thus mentioned by Mr. Wilberforce, who was warmly attached to him:—"One of the most remarkable things about Romilly," he says, "was, though he had such an immense quantity of business, he seemed always an idle man.† If you had not known who or what he was, you would have said, 'he is a remarkably gentleman-like, pleasant man; I suppose, poor fellow, he has no business;' for he would stand at the bar of the House and chat with you, and talk over the last novel, with which he was as well acquainted as if he had nothing else to think about. Once, indeed, I remember coming to speak to him in court, and seeing him look fagged, and with an immense pile of papers by him. This was at a time when Lord Eldon had been reproached for having left business undischarged, and had declared that he would get through all arrears by sitting

\* On the Norfolk circuit, Lee was retained for the plaintiff in an action for breach of promise of marriage: when the brief was brought him, he inquired whether the lady for whose injury he was to seek redress was good-looking. "Very handsome, indeed, sir!" was the assurance of Helen's attorney. "Then, sir," replied Lee, "I beg you will request her to be in court, and in a place where she can be seen." The attorney promised compliance; and the lady, in accordance with Lee's wishes, took her seat in a conspicuous place. Lee, in addressing the jury, did not fail to insist with great warmth on the "abominable cruelty" which had been exercised towards "the lovely and confiding female" before them, and did not sit down until he had succeeded in working up their feelings to the desired point. The counsel on the other side, however, speedily broke the spell with which Lee had enchanted the jury, by observing that his learned friend in describing the graces and beauty of the plaintiff had not mentioned one fact, namely, that the lady had a *wooden leg*! The court was convulsed with laughter, while Lee, who was ignorant of this circumstance, looked aghast; and the jury, ashamed of the influence that mere eloquence had had upon them, returned a verdict for the defendant.

† He seemed to have been a living antithesis to the Duke of Newcastle, commemorated in *Humphrey Clinker*, who was always in a hurry. It used to be said of him, "that he had lost one hour in the morning which he was looking for during the rest of the day."

until the business was done. As I went up to Romilly, Lord Eldon saw me, and beckoned to me with as much cheerfulness and gaiety as possible. When I was alone with Romilly, and asked him how he was, he answered, 'I am worn to death; here we have been sitting on in the vacation, from nine in the morning until four, and when we leave this place, I have to read through all my papers to be ready for to-morrow morning; but the most extraordinary part of all is, that Eldon, who has not only mine, but all the other business to go through, is just as cheerful and untired as ever.'

We should scarcely be justified in here omitting the name of one who followed in the enlightened course of Romilly, and completed many of those reforms which that intrepid philanthropist was spared only to originate—Sir James Mackintosh. This excellent man, although his name can never be mentioned without respect, will never be considered either as a profound lawyer or as a great statesman. The most striking peculiarity of his mind, while it admirably fitted him for an historian, utterly disqualified him for the pursuits of the advocate, whether in parliament or at the bar. He possessed, beyond all men living, the faculty of appreciating the value of the arguments which may be urged on either side of any contested point; and was unable even for a time to suspend the exercise of his judgment, and state forcibly and exclusively those arguments alone to which he gave the preference. On the contrary, speaking in the house or elsewhere, he was not content with stating his own case; he would state, also, that of his adversary, and that with so much precision, that he often damaged his friends, and advantaged his opponents. His style of speaking was always the same, whether his subject was forensic or political. He was fond of resting his case on general principles of morality—he would rather lecture than plead—he sought rather to reason than to confute. He was admirably adapted for the post he was anxious to obtain in his earlier years—the chair of moral philosophy at some university.

The following example of his style as an advocate is communicated in a letter from Mr. Basil Montagu to Sir James' son. "Your father was retained with me, as junior counsel, on behalf of a gentleman, against whom an action had been commenced by a clergyman, for having said that he had misled and seduced the affections of a young lady, who, as pupil, was entrusted to his care. The defence was, '*that the charge was true.*' The court was crowded to excess. The cause was last on the paper, and came on late, after dark in the evening. Lord Alvanley was the judge. The

plaintiff's case was easily proved. About ten at night your father rose, agitated, as I well knew, in mind, but in manner most tranquil. The outline of his address, I well remember. You must consider it a mere skeleton. He began by an explanation of the nature of power, the means to obtain an end, and of knowledge, the most irresistible of all powers. He described its use in preserving ourselves, and in promoting the happiness of society, which he illustrated by the instances of many of the noble patriots by whom England has ever been distinguished. He then described the abuse of the power of knowledge for the gratification of passion, misleading ignorance and innocence, which he illustrated by various characters—the swindler, the libeller, and seducer. 'The abuse of power,' he added, 'we have this night to consider, is the abuse of it by a preceptor over his pupil; by a Christian clergyman over a young woman, whose parents had confided her to his care and instruction.' The court was as still as the grave. The plaintiff stood nearly opposite to us. Your father, mistaking the silence of the court for want of interest, and thinking (as he afterwards informed me) that he had wandered too much into philosophy, hesitated. I saw his embarrassment. I was deeply affected. The sight of my tears convinced him of his error. I earnestly said, 'For God's sake go on.' In a strain of eloquence never exceeded, he proceeded. The whole court was carried away; I never saw such emotion; the opposite counsel and the judge were manifestly agitated. At this moment I was told that the father of the young woman was with his daughter sitting near to Lord Alvanley. I hinted it to my friend. He turned instantly from the jury to the bench. He called upon the father, by all the sweet love of a parent for his child, to protect her from the tutor, in whom he had misplaced his confidence. He appealed to his daughter—as a father he appealed to her. He besought her not to err, by the only mode by which she could be misled, her piety, her love of knowledge, and of virtue. He turned instantly to the plaintiff—old enough to be the father of the young woman—who stood unmoved before us. I will not attempt to describe his appeal. . . . It is my belief that such an effect was never produced in any court of justice. The judge reluctantly endeavoured to counteract the impression which had been produced, by putting his weight into the opposite scale, but it was vain;—a verdict was pronounced for the defendant."

The most celebrated case however in which he was engaged was the defence of Peltier, for a libel on Buonaparte, with whom we were then at peace. This defence

deserves perusal, as a magnificent oration, replete with wit, fancy, and learning, with superb episodes, the character of which partakes alike of oratorical sublimity and historical simplicity, and manifests powers of no ordinary description : as a defence, as a specimen of advocacy, it was a miserable failure. Peltier declared "Dat de feller" had sacrificed him, to shower his praises on Napoleon. Mr. Windham declared, that if Mackintosh had spoken for Peltier in the same manner as he once spoke before an election committee, his client would have had a better chance of escape.

In our time, the debates of the House of Commons often discover lawyers out of their element, while we have some who display themselves to great advantage.

Amongst our recent parliamentary speakers belonging to the legal profession, none was more promising than the late Mr. Horace Twiss. His maiden speech, however, was attended with some very unfortunate circumstances. After he had spoken for about ten minutes, he said, "I have now said enough,"—on this branch of the subject, doubtless he would have added, but he was cut short by Mr. Brougham, with a loud "hear, hear!" which was re-echoed by the house. It is a difficult matter, it must be confessed, to resist the allurements of a good joke, but the consequences of this witticism might, and with a man of keen sensibilities certainly would, have lost the House a useful and efficient member. Mr. Twiss, however, was not daunted, and very soon obliterated the recollection of his first mishap.

Mr. Pemberton Leigh, it is known, delivered one of the ablest, if not the ablest speech against the Reform Bill. Sir William Follett was also confessedly one of the most powerful and efficient speakers of his day. Lord Abinger spoke but rarely since his elevation to the peerage, observing that discreet silence on political matters which befits the dignity of the judicial character ; but during the period he was a member of the House of Commons he was not conspicuous for his oratorical powers. His habit of refining and subtilizing operated to his disadvantage as a parliamentary speaker. Lord Denman, whose voice has been rarely heard in parliament, was, when in the Lower House, not simply an eloquent speaker, but a ready and effective debater. During the time the Reform Bill was going through committee, he came frequently into collision with Sir Charles Wetherell, and the conflict was extremely amusing. The worthy knight, with all his quaint diction and ingenious turns, was no match for the sturdy "upright and down-straight" style of the Whig Attorney-General. He, however, managed to avoid the appearance of defeat, and was always ready, however worsted, to resume the combat

whenever occasion should arise. During one of these tourneys, Sir Charles, in a long, rambling, but amusing speech, compared Old Sarum to Macedon. The retort was quick, "Yes," replied Sir Thomas Denman, "Macedon was ruled by an Alexander." Mr. Alexander, the East India Director, as is well-known, for some time represented this borough in parliament. In the House of Lords, Lords Brougham and Lyndhurst have fully sustained the credit of their profession; but as the public has long ago made up its mind on their merits, we need say no more. Some of the ablest speakers in the House of Lords at all periods have filled judicial situations:—Lord Camden and Lord Mansfield, are names which will immediately occur to our readers. Lord Kenyon, so rough in the House of Commons, so overbearing on the bench, never lost himself in addressing the House of Lords: he never appeared at a greater advantage than in performing this duty.

Very different was the conduct of his predecessor, Jeffreys, who, according to Burnet, carried away by the heat of party, addressed the House of Lords on one occasion with those scurrilous invectives and gestures of menace, with which he was accustomed to overawe juries. But his insolence "roused the indignation instead of commanding the acquiescence of the Lords." He then sunk from arrogance to meanness, and strove to conciliate by adulation those he could not command by insolence. Jeffreys had, however, the reputation of being an able and forcible speaker, and quite capable, if his brutal nature had permitted him, of making an impression on the august assembly which he so grossly and so uselessly insulted. Lord Somers appeared to great advantage in the House of Lords—an arena in which lawyers display themselves more at their ease than in the sharp party contests with which the House of Commons is usually engaged. Of lawyers in the House of Commons, Burke, who, with his powerful mind, was by no means free from prejudice, and who was especially prejudiced against lawyers, says that they were only sojourners: they were birds of a different feather, and only perched in that house in their flight to another; only resting their pinions there for awhile, yet ever fluttering to be gone to the regions of coronets: like the Hibernian in the ship, they cared not how soon they foundered, because they were only passengers; their best bower anchor was always cast in the House of Lords.

Mr. Windham, than whom a more competent authority on such a subject could hardly have been selected, once said, to Mr., afterwards Sir Vicary, Gibbs: "Never think of a seat in parliament till you have pretensions to the ran-

of Solicitor-General." Still, to enter parliament late in life, when a man has got stiff in the joints, is a course equally to be avoided. We have had many instances of the failures of men who have commenced their parliamentary career late in life. Mr. Cobbett and the late Lord Jeffrey, are two instances which will immediately occur to the mind of the reader. Scarcely could two individuals have been selected, although they had few qualities in common, more qualified by nature to succeed in the House of Commons; yet, from their entering too late to acquire that species of knowledge necessary to the accomplished senator, they both failed in making any impression. Grattan said of Flood, who was brought into parliament under similar circumstances, that "the oak of the forest was too old to be transplanted at sixty."



# NOTES AND ILLUSTRATIONS.

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## I.—THE BENCH AND THE BAR.

We have in the text alluded to the dignity of demeanour which should characterize the bench in its intercourse with the bar. Chief Baron Parker, though a very honest and very learned man, was a very undignified judge. When he was delivering his opinion in the course of *Perrin v. Blake*, he exclaimed in a loud tone, "Stare decisis," and gave his desk so severe a rap with his knuckles that the court rung again. Lord Camden used frequently to sit in court in a tie wig, and would garter up his stocking while the counsel were the most strenuous in their eloquence. Lord Clare, the Irish Chancellor, had a favourite dog that would often follow him to the bench. One day, during an argument of Mr. Curran's, his Lordship stooped down and began to caress the dog. Curran stopped short in the middle of a sentence—the judge started. "I beg pardon, my lord," said the advocate, sarcastically, "I thought your *lordships* had been in consultation; but as you have been pleased to resume your attention, allow me to press upon your excellent *understandings*, that," &c.

Mr. Cradock mentions having had, while acting as Sheriff in the room of a friend, to receive at Leicester Mr. Justice Gould and Mr. Baron Hotham. As soon as he was seated with them in the coach, Mr. Justice Gould said to him, "We set out so early from Derby this morning, that we did not receive any letters or public accounts; has any news arrived at Leicester, from America?" "None that is good, I fear, my lord; there seems to have been some disaster in the expedition to the Chesapeake." "Has there," exclaimed the judge, hastily, "that is exactly what I feared and expected." "And pray," cried Baron Hotham, warmly, "why did your lordship particularly fear and expect some disaster in the Chesapeake? Was it because my brother is the leading admiral on that station?" "Upon my heart," replied Mr. Justice Gould, "that circumstance never occurred to me, or I should not have so expressed myself." Mr. Baron Hotham, however, did not appear at all satisfied, and the journey to Leicester was very uncomfortable in consequence. When they arrived at the judge's lodgings, the Under Sheriff whispered to Mr. Cradock, "For heaven's sake, what has been the matter? I rode close to the side of the window that was open, in order to prevent the altercation being heard; but this was impossible." On this, Mr. Cradock followed the judges into their lodgings, and declared to them that he had never felt so un-

easy in his life, as he had been the unwitting cause of the quarrel, and begged the learned baron to be reconciled to his brother. This speech had the desired effect, and harmony was once more restored.

The following dialogue took place not very many years ago, between a learned serjeant and a learned Baron of the Exchequer, while on circuit. When the serjeant entered the court, one morning, the judge said, in a sharp tone. "Brother, you are late—the court has waited a considerable time." "I beg your pardon, my lord," answered the serjeant, "I was not aware that your lordship intended sitting so early; the instant I heard your lordship's trumpet I dressed myself." "You were a long time about it, brother." "I think, my lord, not twenty minutes." "Twenty minutes, Mr. Serjeant! *I was ready in five minutes after I left my bed.*" "In that respect," returned the serjeant, "my dog, Shock, distances your lordship hollow; he only shakes his coat, and fancies himself sufficiently dressed for any company."

We detail the following *fracas* as it is probably new to many of our readers. Mr. Serjeant Taddy was examining a witness in the Court of Common Pleas, and asked him a question respecting some event "that had happened since the plaintiff had disappeared from that neighbourhood." The late Mr. Justice Parke immediately observed, "That's a very improper question and ought not to have been asked." "That is an imputation," replied the Serjeant, "to which I will not submit. I am incapable of putting an improper question to a witness." "What imputation, Sir?" enquired the judge, angrily, "I desire that you will not charge me with casting imputations. I say that the question was not properly put, for the expression 'disappear' means 'to leave clandestinely.'" "I say," retorted Serjeant Taddy, "that it means no such thing." "I hope," rejoined the judge, "that I have some understanding left, and, as far as that goes, the word certainly bore that interpretation, and therefore was improper." "I never will submit to a rebuke of this kind." "That is a very improper manner, Sir, for a counsel to address the court in." "And that is a very improper manner for a judge to address a counsel in." The judge rose and said with great warmth,—"I protest, Sir, you will compel me to do what is disagreeable to me." "Do what you like, my Lord." "Well," said Mr. Justice Parke, resuming his seat, "I hope I shall manifest the indulgence of a Christian judge." "You may exercise your indulgence or your power in any way your Lordship's discretion may suggest; it is a matter of perfect indifference to me." "I have the functions of a judge to discharge, and in doing so I must not be reproved in this sort of way." "And I," replied the undaunted Serjeant, "have a duty to discharge as counsel, which I shall discharge as I think proper, without submitting to a rebuke from any quarter." Anxious to terminate this dispute, in which the dignity of the court was compromised, Mr. Serjeant Lens rose to interfere. "No! brother Lens," exclaimed Mr. Serjeant Taddy, "I must protest against any interference." Serjeant Lens, however, was not to be deterred from effecting his intention, and addressing the Bench, said, "My brother Taddy, my Lord, has been betrayed into some warmth"—here he stopped, Serjeant Taddy seizing him and pulling him back into his place. "I again," he exclaimed, "protest against any interference on my account—I am quite prepared to answer for my own conduct." "My brother Lens, Sir," said Judge Parke, "has a right to be heard." "Not on my account. I am fully capable of answering for myself,"

"Has he not a right to possess the court on any subject he pleases?" "Not while I am in possession of it," retorted the undaunted advocate, "and am examining a witness." Mr. Justice Parke, then seeing evidently that the altercation could not be advisably prolonged, threw himself back into his chair and was silent.

In modern times, the distance between the Bench and the Bar is perhaps too rigorously maintained, and the mutual intercourse and interchange of civilities which has been sacrificed to an apprehension lest the charge of favouritism should be brought has, it may be, been unwisely given up. We should be, indeed, sorry to see the old system of patronage restored—nothing could be conceived which would prove more injurious to the purity of the bench and the independence of the bar; but what we would wish to see restored is, that reciprocation of kindly feelings which would neither lower the dignity of the judge or diminish the respect of the bar, but simply increase the harmony, and, therefore, the efficiency of both. Lord Mansfield was in the habit of favouring with particular notice, Fielding, the son of the novelist. One day his lordship asked him for a pinch of snuff, and Fielding gave him a box containing Lundy-foot, instead of one which held French rappee. Lord Mansfield, who was not a regular snuff-taker, took so large a pinch that he was nearly suffocated. "Why, Fielding," he exclaimed, "what have you given me? I have nearly poisoned myself!" "I humbly beg your lordship's pardon," replied Fielding, "I did not know you disliked *Irish blackguard*." "Why, really, you don't say you have anything about you that would come under that denomination?" rejoined Lord Mansfield. "Pardon me, my lord," returned Fielding, "I generally keep it for the accommodation of the bench." "Pshaw," said his lordship, "the joke would have been a good one, had it not gone down my throat. I say, Fielding, let me be excused from these accommodations for the future." When Fielding made his debut in court, he was put completely at ease by Lord Mansfield addressing him in a good-humoured and encouraging tone—"Well, *Tom Jones*, let us hear what you have got to say." Sir Thomas Plumer, at the time he was a junior at the bar, and before his merits had become known, was engaged in a sessions case with Sir John Davenport. Whenever he rose to address the court, his senior recollected, as he said, some argument which had previously escaped his memory, and interrupted the speech of the young advocate. After this had happened two or three times, Lord Mansfield said, "Sir William, Mr. Plumer appears desirous to say something; pray let us hear him!" Mr. Plumer upon this addressed the court so effectively that much of his after success may be ascribed to his efforts upon that occasion. Lord Kenyon, too, was remarkable for the kindly manner with which he conducted himself towards the junior bar. At a time when Garrow was comparatively unknown in the profession, he was arguing before the court in a manner anything but convincing or satisfactory. "Oh, Mr. Garrow," said the Chief Justice, "do not pursue that, you were made for better things." Garrow, when he had attained to the first rank amongst our advocates, once interrupted a question put to a witness by Best (Lord Wynford), who was then in the commencement of his career—"That is not evidence," said he. "No," said Lord Kenyon, mildly, "it is not evidence as it stands; but Mr. Best is a very sensible young man, and we must trust that he will follow it up with other questions that will make evidence," Mr. Justice Bayley, while on the Northern Circuit, v

one day summing up to a jury, when he was very much disturbed by Mr. Gray, son of a late Bishop of Bristol, who was talking in court with another counsel rather loudly. The judge gently reproved the offender by saying to him, "Mr. Gray, if ever you arrive here, which some of these days I hope you will do, you will know the inconvenience of counsel talking while you are summing up."

In Scotland the distance between the bench and the bar seems less respected than in England—and an intermutual change of familiar jokes seems to be, or at least to have been practised in their courts, which would appear indecent and unseemly in Westminster Hall. Mr. Roscoe relates an anecdote of a great Scotch lawyer, as renowned for his wit as for his learning (probably Mr. Henry Erskine),\* pleading before a judge with whom he was on the most intimate terms. Happening to be retained for a client of the name of Tickle, he commenced his speech, "Tickle my client, the defendant, my lord." He was interrupted by a laugh in court, which was immediately increased by the judge exclaiming—"Tickle her yourself, Harry, you are as able to do so as I am." Only conceive an English judge doing what Lord Kaimes is said to have done while on the circuit at Perth! After a witness on a capital trial had given his evidence, his lordship said to him, "Sir, I have one more question to ask you, and remember you are upon your oath. You say you are from Brechin?" "Yes, my lord." "When do you return thither?" "To-morrow, my lord." "Do you know Collin Gillies?" "Yes, my lord, I know him very well." "Then tell him that I shall breakfast with him on Tuesday morning."

## II.—LEGAL RECREATIONS.

Lord Keeper Guilford, when a student, used to refresh himself after study with music, in which he was a proficient. He played on the "base or lyra-viol, which he used to touch lute fashion upon his knees." This passion for music accompanied him through life, and contributed greatly to his enjoyments. But

"——— different minds  
Incline to different objects——"

there are some people "who have not music in their souls," and would feel themselves but little refreshed by the most ravishing strains of melody. Lord Guilford's great friend, the famous, or rather the infamous, Duke of Lauderdale, used to say, according to Pepys, "that he

\* Henry Erskine was famous as a humourist. Having succeeded in a cause in which his clients—a large coal company, were greatly interested, they invited him to a grand dinner they gave to commemorate their good fortune. The chairman having called on Erskine for a toast, he gave them the following sentiment—"Sink your pits, blast your mines, dam your rivers."

had rather hear a cat mew than the best music in the world; and the better the music the more sick it made him." Sir Matthew Hale, a character somewhat dissimilar, was utterly indifferent to music, and Mr. Windham observed that four of the greatest men he ever knew cared nothing for music—Burke, Fox, Dr. Johnson, and Pitt. Sir James Mackintosh professed the same indifference to sweet sounds, so much so, that Conversation Sharpe used to suggest, as a thesis for the physical schools at Edinburgh, "What was the precise effect of music on the sensorium of Mackintosh?"

Mr. Justice Yates was in the habit of declaring that whenever intense application to any legal studies wearied his mind, he used to read a few pages of Dean Swift's works, which not only relieved him while he read, but sent him back again to his dry law in perfect good humour.—Lord Camden was excessively fond of the old romances: the *Cassandras* and *Clelias* of the ancient imaginative writers, amused him by their adventures, after he had escaped from

"The tedious forms, the solemn prate,  
The pert dispute, the dull debate,"

which occupy the attention of

"The drowsy bench, the babbling hall;"

and in a letter to Mr. Garrick he declares his partiality for the "Seven Champions of Christendom."—Sir Giles Rooke, the worthy old judge of whom we have already spoken, was a most inordinate devourer of novels, and would often sit up in bed all night to sup full of the horrors that the most trashy circulating-library romance could afford. The productions of Mrs. Radcliffe and Miss Burney formed the staple of his reading.—Selden sought recreation at the theatre, and Lord Stowell too was fond of dramatic entertainments.\* To the last he was a regular attendant at the Christmas pantomimes, and avowed a strong predilection for the interesting performances of those itinerant but disputatious comedians—Punch and Judy.

It is of less consequence with what object the mind concerns itself, as that it is employed. Idleness is ever wearisome. Without doubt, the pursuits of literature are the most desirable, because they are the most useful. We see, however, no objection to the amusement of one of our most eminent advocates—he had certainly Socrates, Lord Erskine, and the great Sir W. Jones, as precedents in his favour—to wit, saltatory exercise, or, in vulgar phrase, cutting capers. The late Vice-Chancellor of England, like another great

\* Brindley, the great engineer, was once prevailed on to go to a play. The representation had such an effect on him, that he complained for several days of being unable to attend to business—his ideas being confused, and his attention distracted. He resolved, therefore, never again to visit the theatre. Sir M. Hale said that when he commenced the study of the law, "he took up a resolution, which he punctually observed ever since, never to see a play, having spent all his money on them at Oxford, and having experienced that it was so great an alienation of his mind from his studies, by the recurring of the speeches and actions into his thoughts, as well as the loss of time when he saw them; that he had often disputes with Mr. Selden, who was his great friend, and used to say, he found so great refreshment by it, but he had so much knowledge of the inconvenience of them, that he would not see one for 100l."

lawyer, Mr. Fearn, was fond of aquatics. The latter, however, would often recreate himself, as Lord Brougham has been known to do, after the fatigues of the Chancery Court, a Cabinet Council, and a debate in the Lords, in solving difficult problems, or speculating in the higher branches of physical science.

Sir Edward Coke found recreation in a game at bowls. Lord Lyndhurst is said to have found especial amusement in constructing models of churches or houses; and used, when in full practice at the bar, to employ himself, on a rainy day in the long vacation, with repairing what his children or servants might have demolished.

Anything is better than mere idleness. "We should never do nothing," says a moralist. Helvetius has declared, that listening to a concert for two hours fatigued him, while he could play on an instrument all day long. "There will be time enough for repose in the grave," said Nicole to Pascal. This matter cannot be better summed up than in the words of the incomparable Quarles: "Let thy recreation be manly, moderate, seasonable, lawful: if thy life be sedentary—more tending to the exercise of the body; if active, more to the refreshing of thy mind. The use of recreation is to strengthen thy labour, and sweeten thy rest."

### III.—THE LITERARY LAWYER.

THE love of fine writing, which was the besetting sin of our older lawyers, appears to have been inherited by their descendants. Ugly women are proverbial for their fondness for rich ornaments and gay dress; and, in something of a like way, lawyers, whose subject requires from them nothing but plain and unvarnished, are fond of florid language. The author of the "Pursuits of Literature" has attacked Mr. Hargrave for his literary attempts; and certainly, as the reader must admit, not without justice—

"With Hargrave to the Peers approach with awe,  
And sense and grammar sink in Yorke and law."

The following is the passage to which the satirist refers:—Of Charles Yorke, Hargrave says, "He was a modern *constellation* of English jurisprudence, whose *digressions* from the exuberance of the best judicial knowledge were illustrations, whose energies were oracles, whose constancy of mind was won into the pinnacle of our English forum, at an inauspicious moment; whose exquisiteness of sensibility at almost the next moment, from the impression of imputed error, stormed the fort of even his highly-cultivated reason, and so made elevation and extinction contemporaneous; and whose prematurity of fate has caused an almost insuppliable interstice in the science of English equity."—The endless confusion of metaphors in this rhapsody reminds us of the of Tarpela, who sunk beneath her ornaments. The besetting sin

of lawyers has sometimes displayed itself in those whose classical training should have produced better things. Lord Stowell, whose literary accomplishments are well known, has spoken of "*Dockets which betray a taint and leaven of suspicion.*" This unhappy expression drew forth the sarcastic criticism of Lord Brougham. In another place, the noble civilian observes that, "When the claimant steps out of his affidavit, he steps into empty space!" "*To travel out of the record*" was also a favourite expression of his—although

"Oxford's fav'rite son,———"

Mr. (afterwards Sir R.) Dallas, who was a junior counsel for Warren Hastings, is reported to have said in one of his speeches—"Now we are advancing from the *starlight of circumstantial evidence*, to the *day-light of discovery*; the sun of certainty has melted the darkness,—and we have arrived at the facts admitted by both parties." "When I cannot talk sense," says Curran, "I talk metaphor."

Fearne, who was an accomplished classical scholar, speaking of some moot-question in our law, observes, that it "*hath been a point that hath long walked in Westminster Hall.*"

It has been a usual complaint that the difficulty of understanding law, is greatly aggravated by the barbarous phraseology in which the lawyers write.

A physician once reproached a learned counsel, with what Mr. Bentham would call the "uncognoscibility" of the technical terms of law. "Now, for example," said he, "I never could comprehend what you meant by *docking an entail*." "My dear doctor," replied the barrister, "I don't wonder at that, but I will soon explain the meaning of the phrase; it is doing what your profession never consent to—*suffering a recovery!*" Technical terms must always seem uncouth, and be unintelligible to those to whom the science in which they are used is unknown, and perhaps abstractedly speaking law phrases are not one whit more barbarous and uncognoscible than those of any other science.

The phrases used in Scottish law are even more difficult and obscure than those in use on this side of Tweed; and this arises from the circumstance that the Scotch lawyers employ words in ordinary use in a certain technical sense. When a judge wishes to be peremptory in an order, he ordains parties to *condescend*; when he intends to be mild, he recommends them to *lose* their pleas. When anybody thinks proper to devise his estates for the benefit of the poor, he is considered by the law of Scotland, to *mortify* them. Witnesses are brought into court upon a *diligence*, and before they can be examined, they must be *purged*. If a man loses his deceased elder brother's estate, it is called a *conquest!* The elegant phrases of "*blasting you at the horn,*" "*pounding your estate,*" "*consigning you to the Fisc,*" exceed any barbarisms for which Westminster Hall need to blush. We have, however, assuredly some phrases which sound strange in laymen's ears—*docking an entail*—*seized in fee*—*villains in gross*, &c.

When Sir Thomas More was at Bruges, some bold doctor offered a challenge to the world, to dispute on any given subject. More readily accepted the challenge, and proposed the following question: "Whether beasts taken in withernam can be replevied?" This question, touching a point of our municipal law, abashed the sophist, who pretended to universal knowledge, and who, at once, withdrew from the field.

A well-known counsel, not long dead—Mr. Marryatt—declared that he never opened any book, after he left school, but a *law* book. But Mr. Marryatt was certainly no instance in favour of such a practice. Once, when addressing a jury, he was speaking of a chimney on fire, and exclaimed—"Gentlemen, the chimney took fire—it poured forth *volumes* of smoke—*volumes* did I say? Whole *encyclopaedias*!"

#### IV.—THE POET AND THE LAWYER.

COWPER—the gentle, amiable, unhappy Cowper—was destined for the bar. "From the age of twenty-three," he says, "I was occupied, or ought to have been occupied, in the study of the law. At the age of eighteen, being tolerably well furnished with grammatical knowledge, I was taken from Westminster, and, having spent about nine months at home, was sent to acquire the practice of an attorney." Then it was he became acquainted with Thurlow, afterwards Chancellor. To the period of his clerkship he thus alludes in a letter to Lady Hesketh—"I did actually live three years with Mr. Chapman, a solicitor; that is to say, I slept three years in his house; but I lived, that is to say, I spent my days, in Southampton-row, as you well remember. There was I and the future Lord Chancellor constantly employed, from morning to night, in giggling and making giggle, instead of studying the law. O fie, cousin! how could you do so?" After leaving Mr. Chapman's, which he did when he became of age, he took chambers in the Temple; here, however, he was in no ways more profitably occupied. "Three years," as he observes in a letter to Mr. Unwin, "mis-spent at an attorney's office were, almost of course, followed by several more, equally mis-spent, in the Temple."

He took no pains to qualify himself for practice in his profession, trusting to his trifling patrimony, or to the zeal of his friends for obtaining the means of future subsistence. One evening, during the period of his residence at Mr. Chapman's, Cowper was drinking tea, together with Thurlow, at the house of a lady in Bloomsbury. Addressing his fellow-giggler, he said, "Thurlow, I am nobody, and shall always be nobody, and you will be Chancellor. You shall provide for me when you are." Thurlow smiled, and replied, "I surely will." "These ladies," said Cowper, "are witnesses." The future Chancellor still smiled, and said, "Let it be so, for I certainly will do it."\* Shortly after his removal to the Temple, Cowper's constitutional

\* Cowper considered himself slighted by Thurlow, when the latter arrived at the predicted dignity. But there is strong evidence to show that Thurlow was not aware that his friend was in indigent circumstances, until the very month that he went out of office for the last time, in fact until the period when he could do nothing for him. That Thurlow had not forgotten his ancient intimacy with the poet, is amply shown by some letters which have not long been published. It seems that Cowper had become persuaded that was wholly unacceptable to God: in order to combat this delusion,



malady began to manifest itself. His law studies have often been supposed to have contributed to promote, if not to produce it ; but this is in the highest degree improbable. Those studies were pursued in too desultory a manner to have had such a tendency ; but, on the contrary, it is highly probable that had they been pursued more steadily and effectively, and had the unhappy poet, instead of "giggling and making giggle" for the three years he was with Mr. Chapman, devoted himself to the study of his profession, he would have so strengthened and disciplined his mind, as to have enabled it to resist the onslaught of the unhappy delusions to which it afterwards became the prey.

Hayley, his friend, who had become intimate with the ex-Chancellor, applied to various persons, eminent for their station and piety (the King, the Bishops, the Judges, &c.), to induce them, as of their own accord, to address letters to Cowper, testifying to the service his works had performed to religion and morals. Letters have been found, addressed by Lord Thurlow to Lord Kenyon, earnestly entreating him to aid this plan ; and sending him a form, prepared by himself, for the Chief Justice's signature.

THE END

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